

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/STOP PRESS:  
CORONERS AND JUSTICE ACT 2009

## **CORONERS (**

### **STOP PRESS:**

The Coroners and Justice Act 2009 makes provision in relation to coroners, about the investigation of deaths and certification and registration of deaths, to amend the criminal law, about criminal justice and about dealing with offenders, about the Commissioner for Victims and Witnesses, relating to the security of court and other buildings, about legal aid and about payments for legal services provided in connection with employment matters, for payments to be made by offenders in respect of benefits derived from the exploitation of material pertaining to offences and to amend the Data Protection Act 1998. The Act received the royal assent on 12 November 2009 and the following provisions came into force on that day: ss 47, 48, 116, 143, 151, 152, 154, 176, 177 (in part), 178 (in part), 179, 181, 183, Schs 18, 21-23 (in part). Further provisions came into force on 14 December 2009: ss 106 (in part and in the relevant local justice areas), 107 (in the relevant local justice areas), 108 (in the relevant local justice areas), 109, 110: SI 2009/3253. Further provisions came into force on 1 January 2010: ss 86-97, Schs 21-23 (in part): s 182(3). Further provisions came into force on 12 January 2010: ss 73, 138, 178 (in part), Schs 21-23 (in part): s 182(2). Further provisions came into force immediately before 1 February 2010: s 142 and Sch 23 Pt 5 (in part) (SI 2010/145). Further provisions came into force on 1 February 2010: ss 35, 59-61, 72, 112, 114, 115, 118(2) (for certain purposes), 140, 141, 149, 150, 153, 173 (in part), 174, 175 (in part), 180, Sch 12, Sch 15 paras 1-4, 5 (for certain purposes), 6, 7 (for certain purposes), 9, 10 (for certain purposes), Sch 20 paras 1-3, Sch 21 paras 53-61, 74-78, Sch 22 paras 7-11, 25, 28, 39, and Sch 23 (in part) (SI 2010/145). Further provisions came into force on 6 April 2010: ss 62-71, 74-85, 113, 118 (so far as it is not already in force), 119-136, 146, 147, 155-172, 173 (so far as it is not already in force), 175 (in part), 177 (for certain purposes), 178 (in part), Schs 13, 15 (so far as it is not already in force), 19, 20 (in part), 21-23 (in part) (SI 2010/816). Further provisions came into force on 4 October 2010: ss 52, 54, 55, 56(1), (2)(a), 57, 177 (in part), 178 (in part), Schs 21 (in part), 23 (in part) (SI 2010/816). The remaining provisions come into force on a day or days to be appointed. For details of commencement, see the COMMENCEMENT OF STATUTES table in the Current Service Noter-up booklet.

### ***Part 1 (ss 1-51) Coroners etc***

#### ***Chapter 1 (ss 1-17) Investigations into deaths***

Section 1 establishes a senior coroner's duty to investigate certain deaths. A senior coroner who is under a duty to conduct an investigation may request a senior coroner for another area to conduct the investigation: s 2. Under s 3, the Chief Coroner may direct a senior coroner to conduct an investigation into a person's death even though, apart from the direction, a different senior coroner would be under a duty to conduct it. Section 4 makes provision for the discontinuance of investigation where the cause of death is revealed by post-mortem examination. The matters to be ascertained are who the deceased was, how, when and where the deceased came by his death and the particulars required by the Births and Deaths Registration Act 1953 to be registered concerning the death: 2009 Act s 5. A senior coroner who conducts an investigation into a person's death must hold an inquest into the death: s 6.

Section 7 specifies whether a jury is required. Where there is a jury, the jury at an inquest is to consist of seven, eight, nine, ten or eleven persons: s 8. Section 9 makes provision as to determinations and findings by jury. Section 10 specifies the determinations and findings to be made after hearing the evidence at an inquest into a death. Section 1, Sch 1 make provision about suspension and resumption of investigations. Section 12 concerns investigation in Scotland. The circumstances in which investigation in England and Wales may be made, despite a body being brought to Scotland, are given in s 13. A senior coroner may request a suitable practitioner to make a post-mortem examination of a body: s 14. Under s 15, a senior coroner may order the body to be removed to any suitable place. A senior coroner who is conducting an investigation into a person's death that has not been completed or discontinued within a year must notify the Chief Coroner of that fact and must notify the Chief Coroner of the date on which the investigation is completed or discontinued: s 16. The Chief Coroner must monitor investigations into service deaths and secure that coroners conducting such investigations are suitably trained to do so: s 17.

#### *Chapter 2 (ss 18-21) Notification, certification and registration of deaths*

The Lord Chancellor may make regulations requiring a registered medical practitioner to notify a senior coroner of a death of which the practitioner is aware: s 18. Primary care trusts, in England, and local health boards, in Wales, must appoint persons as medical examiners to discharge the functions conferred on medical examiners by or under ss 18-21: s 19. Provision may be made requiring a registered medical practitioner who attended the deceased before his death to provide a medical certificate of the cause of death: s 20. The Secretary of State may appoint a person as National Medical Examiner: s 21.

#### *Chapter 3 (ss 22-24) Coroner areas, appointments etc*

Section 22, Sch 2 make provision about coroner areas. Provision is also made about the appointment of senior coroners, area coroners and assistant coroners: s 23, Sch 3. Section 24 deals with the provision of staff and accommodation.

#### *Chapter 4 (ss 25-31) Investigations concerning treasure*

Section 25, Sch 4 make provision about the appointment of the Coroner for Treasure and Assistant Coroners for Treasure. The Coroner must conduct an investigation concerning an object in respect of which notification is given under the Treasure Act 1996 s 8(1): 2009 Act s 26. The Coroner for Treasure may, as part of an investigation under s 26, hold an inquest concerning the object in question: s 27. A determination must be made as to the outcome of investigations concerning treasure: s 28. Section 29 makes provision as to the exception to the duty to investigate. The Treasure Act 1996 s 8A, which concerns the duty to notify the coroner of the acquisition of certain objects, is added by the 2009 Act s 30. Section 31 s 31 makes provision for a code of practice under the Treasure Act 1996 s 11.

#### *Chapter 5 (ss 32-34) Further provision to do with investigations and deaths*

The 2009 Act s 32, Sch 5 make provision about powers of senior coroners and the Coroner for Treasure. Section 33, Sch 6 set out offences relating to jurors, witnesses and evidence. Section 34, Sch 7 provide details about allowances, fees and expenses.

#### *Chapter 6 (ss 35-42) Governance etc*

Under s 35, Sch 8, provision is made about the appointment of the Chief Coroner and Deputy Chief Coroners. The Chief Coroner must give the Lord Chancellor a report for each calendar year: s 36. The Chief Coroner may make regulations about the training of senior coroners, area coroners and assistant coroners, the Coroner for Treasure and Assistant Coroners for Treasure and coroners' officers and other staff: s 37. Section 38, Sch 9 make provision about the appointment of the Medical Adviser to the Chief Coroner and Deputy Medical Advisers to the Chief Coroner. It is the duty of inspectors of court administration appointed under the Courts Act 2003 s 58(1) to inspect and report to the Lord Chancellor on the operation of the coroner

system: 2009 Act s 39. Section 40 concerns appeals to the Chief Coroner that may be made by an interested person. Section 41, Sch 10 make provision for an investigation into a person's death to be carried out by the Chief Coroner or the Coroner for Treasure or by a judge, former judge or former coroner. Pursuant to s 42, the Lord Chancellor may issue guidance about the way in which the coroner system is expected to operate in relation to interest persons.

#### *Chapter 7 (ss 43-51) Supplementary*

The Lord Chancellor may make regulations for regulating the practice and procedure at or in connection with investigations under ss 1-51, examinations under s 14 and exhumations under Sch 5 para 6: s 43. The Lord Chancellor may also make regulations for regulating the practice and procedure at or in connection with investigations concerning objects that are or may be treasure or treasure trove: s 44. Coroners rules may be made for regulating the practice and procedure at or in connection with inquests: s 45. The office of coroner of the Queen's household is abolished: s 46. Section 47 defines 'interested person' and s 48 provides general interpretation. Sections 49, 50, Sch 11 relate to Northern Ireland and Scotland. Section 51 amends the Access to Justice Act 1999 Sch 2 in relation to public funding for advocacy at certain inquests.

### **Part 2 (ss 52-73) Criminal offences**

#### *Chapter 1 (ss 52-61) Murder, infanticide and suicide*

The 2009 Act s 52 substitutes the Homicide Act 1957 s 2 so that a person who kills or is a party to the killing of another is not to be convicted of murder if he was suffering from an abnormality of mental functioning which arose from a recognised medical condition, substantially impaired his ability to do certain specified things and provides an explanation for his acts and omissions in doing or being a party to the killing. The 2009 Act s 53 relates to Northern Ireland. Section 54 provides the partial defence to murder of loss of control. Section 55 gives the meaning of 'qualifying trigger'. The common law defence of provocation is abolished and replaced by ss 54, 55: s 56. Section 57 amends the Infanticide Act 1938 s 1. The 2009 Act s 58 relates to Northern Ireland. Section 59 provides that a person commits an offence if he does an act capable of encouraging or assisting the suicide or attempted suicide of another person and his act was intended to encourage or assist suicide or an attempt at suicide. Section 60 relates to Northern Ireland. Section 61, Sch 12 make special provision in relation to persons providing information society services.

#### *Chapter 2 (ss 62-69) Images of children*

It is an offence for a person to be in possession of a prohibited image of a child, however this does not apply to excluded images, an 'excluded image' being an image which forms part of a series of images contained in a recording of the whole or part of a classified work: ss 62, 63. Section 64 specifies defences and s 65 gives the meaning of 'image' and 'child'. Section 66 deals with penalties and s 67 with entry, search, seizure and forfeiture. Section 68, Sch 13 make special rules relating to providers of information society services. Section 69 amends the Protection of Children Act 1978 s 1A so as to include pseudo-photographs with photographs.

#### *Chapter 3 (ss 70-73) Other offences*

The 2009 Act s 70 amends the International Criminal Court Act 2001 in relation to genocide, crimes against humanity and war crimes. The 2009 Act s 71 provides that a person commits an offence if he holds another person in slavery or servitude and the circumstances are such that he knows or ought to know that the person is so held, or he requires another person to perform forced or compulsory labour and the circumstances are such that he knows or ought to know that the person is being required to perform such labour. Section 72 amends the Criminal Law Act 1977 s 1A in relation to conspiracy. The common law offences of sedition and seditious libel, defamatory libel and obscene libel are abolished: 2009 Act s 73.

### ***Part 3 (ss 74-117) Criminal evidence, investigations and procedure***

#### *Chapter 1 (ss 74-85) Anonymity in investigations*

Section 74 defines 'qualifying offences' for the purposes of ss 74-85. For the purpose of ss 74-85 a criminal investigation is a qualifying criminal investigation if it is conducted by an investigating authority wholly or in part with a view to ascertaining whether a person should be charged with a qualifying offence or whether a person charged with a qualifying offence is guilty of it: s 75. Section 76 defines 'investigation anonymity order'. Section 77 concerns applications for investigation anonymity orders made to a justice of the peace. Section 78 provides conditions for making the order. An appeal may be made against the refusal of an order: s 79. A justice of the peace may discharge an investigation anonymity order if it appears to the justice to be appropriate to do so: s 80. A chief officer of police of a police force in England and Wales may authorise a person to exercise the chief officer's functions under ss 74-85: s 81. Section 82 provides that nothing in ss 74-85 affects the common law rules as to the withholding of information on the grounds of public interest immunity. Under s 83, the Secretary of State must review the operation of ss 74-85 and prepare a report of that review. Section 84 makes provision as to the application of ss 74-85 to the armed forces. Section 85 provides interpretation.

#### *Chapter 2 (ss 86-97) Anonymity of witnesses*

Section 86 defines 'witness anonymity order'. Under s 87, an application for a witness anonymity order to be made in relation to a witness in criminal proceedings may be made to the court by the prosecutor or the defendant. Section 88 provides the conditions for making a witness anonymity order. The relevant considerations for deciding whether Conditions A-C in s 88 are met are set out in s 89. Where, on a trial on indictment with a jury, any evidence has been given by a witness at a time when a witness anonymity order applied to the witness, the judge must give the jury such warning as the judge considers appropriate to ensure that the fact that the order was made in relation to the witness does not prejudice the defendant: s 90. A witness anonymity order may be discharged or varied: s 91. Section 92 deals with discharge or variation after proceedings. Discharge or variation of the order may be made by the appeal court: s 93. Special provisions apply in relation to service courts: see s 94. Nothing in ss 86-97 affects the common law rules as to the withholding of information on the grounds of public interest immunity: s 95. The Criminal Evidence (Witness Anonymity) Act 2008 ss 1-9, 14 cease to have effect: 2009 Act s 96. Section 97 provides interpretation.

#### *Chapter 3 (ss 98-105) Vulnerable and intimidated witnesses*

Section 98 amends the Youth Justice and Criminal Evidence Act 1999 ss 16, 21, 22 in relation to the age of child witnesses in the context of eligibility for special measures. The 2009 Act s 99, Sch 14 concern eligibility for special measures with regard to offences involving weapons. Section 100 amends the Youth Justice and Criminal Evidence Act 1999 s 21 with regard to special provisions relating to child witnesses. The 2009 Act s 101 makes special provisions relating to sexual offences. Section 102 concerns the presence of a supporter where evidence is given by live link. Section 103 concerns supplementary testimony where there is video recorded evidence in chief. Section 104 makes provision for the examination of the accused through an intermediary. Section 105 makes provision in relation to the age of a child complainant.

#### *Chapter 4 (ss 106-110) Live links*

Section 106 amends the Crime and Disorder Act 1998 s 57B so that directions may be given to attend through a live link. The 2009 Act 107 amends the Police and Criminal Evidence Act 1984 ss 46ZA, 46A in relation to answering to live link bail. The 2009 Act s 108 adds the 1984 Act s 54B so that a constable may search at any time any person who is at a police station to answer

to live link bail and any article in the possession of such a person. The 2009 Act s 109 concerns the use of live link in certain enforcement hearings. Section 110 permits the power to give a live link direction for hearings in the Court of Appeal to be exercised by the registrar.

#### *Chapter 5 (ss 111-117) Miscellaneous*

Section 111 amends the Criminal Justice Act 2003 s 138 in relation to the effect of the admission of a video recording. The 2009 Act 112 concerns the admissibility of evidence of previous complaints. Section 113 sets out the powers in respect of offenders who assist investigations and prosecutions. Section 114 provides that if the defendant is charged with murder, the defendant may not be granted bail unless the court is of the opinion that there is no significant risk of the defendant committing, while on bail, an offence that would, or would be likely to, cause physical or mental injury to any person other than the defendant. A person charged with murder may not be granted bail except by order of a judge of the Crown Court: s 115. Section 116 amends the Administration of Justice (Miscellaneous Provisions) Act 1933 s 2 in relation to indictment of offenders. The 2009 Act makes provision in respect of the detention of persons under the Terrorism Act 2000 s 41.

### **Part 4 (ss 118-141) Sentencing**

#### *Chapter 1 (ss 118-136) Sentencing Council for England and Wales*

The 2009 Act s 118, Sch 15 establish a Sentencing Council for England and Wales. The Council must, as soon as practicable after the end of each financial year, make to the Lord Chancellor a report on the exercise of the Council's functions during the year: s 119. 'Sentencing guidelines' means guidelines relating to the sentencing of offenders: s 120. Section 121 provides for sentencing ranges. Section 122 defines 'allocation guidelines'. Under s 123, provision is made for the preparation or revision of guidelines in urgent cases. The Lord Chancellor can propose to the Council that it prepare or revise its guidelines: s 124. Every court must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender's case, and must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function, unless the court is satisfied that it would be contrary to the interests of justice to do so: s 125. Section 126 makes provision as to the determination of tariffs. Where the Council publishes draft guidelines under s 120 or s 122, or issues guidelines as definitive guidelines under s 120 or s 122, the Council must publish a resource assessment in respect of the guidelines: s 127. Under s 128, the Council must monitor the operation and effect of its sentencing guidelines. The Council may promote awareness of matters relating to the sentencing of offenders by courts in England and Wales: s 129. Section 130 provides that the annual report for a financial year must contain a sentencing factors report. The annual report for a financial year must contain a non-sentencing factors report: s 131. The Council's duty to assess the impact of policy and legislative proposals is dealt with in s 132. By s 133, the Lord Chancellor may provide the Council with such assistance as it requests in connection with the performance of its functions. Section 134 provides for the entrenchment of the Lord Chancellor's functions. The Sentencing Guidelines Council and the Sentencing Advisory Panel are abolished: s 135. Section 136 provides for interpretation.

#### *Chapter 2 (ss 137-141) Other provisions relating to sentencing*

Section 138, Sch 16 make provision about the extension of disqualification for holding or obtaining a driving licence in certain circumstances. Section 138 makes provision for certain terrorism offences. Section 139 concerns Northern Ireland. Section 140 makes provision with regard to appeals against certain confiscation orders. Section 141 concerns Northern Ireland.

### **Part 5 (ss 142-148) Miscellaneous criminal justice provisions**

Section 142 modifies the status and functions of the Commissioner for Victims and Witnesses. Section 143 allows the implementation of the European Parliament and EC Council Directive 2000/31 on e-commerce and the European Parliament and EC Council Directive 2006/123 on services in the internal market. Section 144, Sch 17 contain amendments relating to the treatment of criminal convictions imposed by courts outside England and Wales. Section 145 deals with the transfer to the Parole Board of functions under the Criminal Justice Act 1991. The 2009 Act s 146 amends the Courts Act 2003 s 55 in relation to the retention of knives surrendered or seized. The 2009 Act s 147 relates to Northern Ireland. The Lord Chancellor may, by order, authorise or require the Lord Chancellor, or such other person as may be specified, to designate persons as security officers in relation to a specified description of tribunal buildings: s 148.

### ***Part 6 (ss 149-154) Legal aid and other payments for legal services***

Section 149 makes provision with regard to pilot schemes for Community Legal Service. Section 150 amends the Access to Justice Act 1999 Sch 2 with regard to the excluded service of help in connection with business matters. The 2009 Act s 151 extends the power to seek information from the Commissioners for Her Majesty's Revenue and Customs and the Secretary of State, which at present may be exercised for purposes relating to an individual's financial eligibility for legal aid services to cover purposes relating to an individual's liability to make contributions toward the cost of those services. Section 152, Sch 18 provide for the enforcement of an order to pay for the cost of representation. By virtue of s 153, secondary legislation made by the Lord Chancellor may include consequential, incidental supplementary, transitional, transitory and saving provisions. Section 154 provides for the regulation of damages-based agreements in respect of claims relating to employment matters.

### ***Part 7 (ss 155-172) Criminal memoirs etc***

A court may make an exploitation proceeds order in respect of a person if it is satisfied, on the balance of probabilities, that the person is a qualifying offender and has obtained exploitation proceeds from a relevant offence: s 155. Section 156 defines 'qualifying offender'. Section 157 makes further provision as to qualifying offenders in relation to service offences. Section 158 makes supplementary provision in relation to qualifying offenders. Section 159 defines 'relevant offence'. Section 160 sets out what amounts to 'deriving a benefit' for the purposes of s 155. A court may not make an exploitation proceeds order except on the application of an enforcement authority: s 161. Section 162 sets out a range of factors that the court must take into consideration when deciding whether to make an exploitation proceeds order in respect of any benefit and, if it makes an order, the recoverable amount to be specified in the order. Section 163 places a limit on the amount that the court can order a person to pay ('the recoverable amount'). The available amount is the total of the value of the respondent's relevant assets, to the extent that any benefits identified in the order are benefits secured for a person other than the respondent, the value of those benefits, and the value, at the time the exploitation proceeds order is made, of such relevant gifts, if any, as the court considering making the exploitation proceeds order considers it just and reasonable to take account of in determining the available amount: s 164. 'Property' is all property wherever situated and includes money, all forms of real, corporeal or personal property and things in action and other intangible or incorporeal property: s 165. Section 166 makes provision as to where the court has made an exploitation proceeds order and a conviction relevant to the order is quashed. Section 167 sets out the powers of the court on repeat applications. A court making an exploitation proceeds order may also make an additional proceeds reporting order in respect of the respondent: s 168. Section 169, Sch 19 extend the provisions relating to investigations to include exploitation proceeds investigations. Section 170 makes consequential changes to the functions of the Serious Organised Crime Agency. Section 171 has the effect that an application

for an exploitation proceeds order may not be made more than six years after the enforcement authority's cause of action accrued. Section 172 provides interpretation.

### ***Part 8 (ss 173-175) Data Protection Act 1998***

Section 173 provides so that the Commissioner may serve a data controller with a notice for the purpose of enabling the Commissioner to determine whether the data controller has complied or is complying with the data protection principles. Section 174 amends the Data Protection Act 1998 s 52 so that the Commissioner must prepare a code of practice which contains practical guidance in relation to the sharing of personal data in accordance with the requirements of the 1998 Act and such other guidance as the Commissioner considers appropriate to promote good practice in the sharing of personal data. The 2009 Act s 175, Sch 20 contain further amendments of the Data Protection Act 1998.

### ***Part 9 (ss 176-183) General***

Orders or regulations made by the Secretary of State, the Lord Chancellor, the Welsh Ministers or the Chief Coroner under the 2009 Act are to be made by statutory instrument: s 176. Section 177, Schs 21, 22 make consequential amendments and transitional and saving provisions. Section 178, Sch 23 contain repeals. Section 179 deals with financial provision. Section 180 makes provision as to the effect of amendments to provisions applied for purposes of service law. Sections 181-183 deal with extent, commencement and short title.

### ***Amendments, repeals and revocations***

Subscribers should note that the lists below mention repeals and amendments which are or will be effective when the Act is fully in force. Please refer to the top of this summary for details of the in-force dates of the provisions of the Act. Please also note that these lists are not exhaustive.

Specific provisions of a number of Acts are added, amended or repealed. These include: Infanticide Act 1938 s 1; Homicide Act 1957 s 2; Suicide Act 1961 ss 2-2B; Criminal Appeal Act 1968 ss 11, 11A; Criminal Law Act 1977 s 1A; Limitation Act 1980 s 27C; Police and Criminal Evidence Act 1984 ss 54B, 54C; Treasure Act 1996 s 8A; Data Protection Act 1998 s 52A-52E; Crime and Disorder Act 1998 s 57B, 57C, 57F; Access to Justice Act 1999 ss 17, 17A, Sch 2; Youth Justice and Criminal Evidence Act 1999 ss 16, 21, 22, 22A, 24, 27, 33BA, 33BB, 35; International Criminal Court Act 2001 ss 53, 60, 65A, 65B, 67A; Police Reform Act 2002 s 51; Criminal Justice Act 2003 s 138, Sch 15; Domestic Violence, Crime and Victims Act 2004 ss 48-50.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/1. INTRODUCTION/901. Scope of the title.

## 1. INTRODUCTION

### 901. Scope of the title.

The office of coroner was first established in medieval times and has developed to become an independent judicial office charged with investigating sudden, violent or unnatural deaths<sup>1</sup>. This title sets out the history and classification of the office of coroner<sup>2</sup>, explains the role of coroners ex officio<sup>3</sup>, the Queen's coroner and attorney and the coroner of the Queen's household<sup>4</sup>, and discusses the appointment<sup>5</sup>, qualifications<sup>6</sup>, jurisdiction<sup>7</sup>, salary and fees<sup>8</sup>, resignation, retirement and removal from office<sup>9</sup> of district coroners and their deputy coroners<sup>10</sup>. The duties, privileges and liabilities of coroners are also discussed<sup>11</sup>.

In certain circumstances deaths must be reported to the coroner<sup>12</sup>. Once the coroner has assumed jurisdiction<sup>13</sup>, he must consider whether an inquest or post-mortem examination is necessary<sup>14</sup>. The procedure to be followed is prescribed<sup>15</sup>. The decision of a coroner may be challenged<sup>16</sup>.

Coroners also have the role of carrying out inquests into treasure<sup>17</sup>.

1 As to the history of the office see PARA 903 post.

2 See PARAS 903-905 post.

3 See PARA 906 post.

4 See PARAS 934-935 post.

5 See PARAS 907-912 post.

6 See PARAS 913-914 post.

7 See PARAS 915-917 post.

8 See PARAS 918-922 post.

9 See PARAS 923-931 post.

10 See PARAS 932-933 post.

11 See PARAS 937-947 post.

12 See PARAS 949-952 post.

13 As to the assumption of jurisdiction see PARAS 953-962 post.

14 See PARAS 963-973 post.

15 See PARA 974 et seq post.

16 See PARAS 1072-1076 post.

17 See PARAS 1077-1082 post.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/1. INTRODUCTION/902. Proposals for reform.

## **902. Proposals for reform.**

Following perceived shortcomings in the coroner system, a fundamental review of death certification and coroner services was set up in 2001 which carried out detailed consultation and research<sup>1</sup>. This was followed by further reviews to investigate how the death certification and coroner system should be reformed<sup>2</sup>. In March 2004, the government published a response in the form of a paper containing outline proposals for reforms<sup>3</sup>. The main proposals were:

- 1 (1) to make the system more sensitive to the needs of the bereaved;
- 2 (2) to provide for better medical scrutiny in the death verification and certification systems by introducing a medical examiner employed by the coroner service to screen all cases<sup>4</sup>;
- 3 (3) to create a national jurisdiction headed by a Chief Coroner;
- 4 (4) to amend the right of appeal<sup>5</sup>;
- 5 (5) to give statutory power to the coroner to enter premises and seize documents<sup>6</sup>;
- 6 (6) to allow narrative verdicts to be given at inquests in place of the current short-form verdicts<sup>7</sup>;
- 7 (7) to examine the provision of public funding for legal representation at inquests;
- 8 (8) to remove responsibility for the investigation of treasure from coroners generally<sup>8</sup>.

However, in February 2006 the government published a briefing note on coroner service reform which provided for six areas of reform: (a) the right of the bereaved to contribute to coroners' investigations; (b) national leadership under a chief coroner, with an advisory coronial council, but coroners to continue to be appointed and funded by local authorities; (c) a smaller number of full-time coroners, all legally qualified; (d) investigation and inquest procedures to be modernised and archaic boundary restrictions to be removed; (e) in limited areas (for example, some suicides and child deaths) coroners to be able to dispense with public inquest hearings where no public interest is served by holding them; (f) better medical advice and support for coroners at local and national level. Responsibility for treasure finds to remain with the coroners service but handled by a single specialist national coroner for treasure<sup>9</sup>.

<sup>1</sup> See *Death Certification and Investigation in England, Wales and Northern Ireland, Report of a Fundamental Review 2003* (Cm 5831) (June 2003).

<sup>2</sup> For example, the Shipman Inquiry which identified important failings in the systems resulting in inadequate protection against malpractice. See, in particular, the *Third Report into Death Certification and the Investigation of Deaths by Coroners* (Cm 5854) (14 July 2003).

<sup>3</sup> See the Home Office Position Paper *Reforming the Coroner and Death Certification Service* (Cm 6159) (March 2004).

<sup>4</sup> As to the current death certification system see PARA 951 post.

<sup>5</sup> As to the right of appeal see PARAS 1072-1076 post.

<sup>6</sup> At present the coroner has no such power: see PARA 1056 post.

<sup>7</sup> As to the form of verdict see PARAS 1030-1044 post.

8 It is proposed that the investigation of treasure be carried out by a small number of specialised officers who will operate nationally.

9 See *Coroners Service Reform Briefing Note* Department for Constitutional Affairs (February 2006).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(1) HISTORY AND CLASSIFICATION/903. History of the office.

## 2. THE OFFICE OF CORONER

### (1) HISTORY AND CLASSIFICATION

#### 903. History of the office.

The office of coroner is of great antiquity<sup>1</sup>, and no satisfactory account of its origin can be given. It is said to have existed in the time of the Anglo-Saxon kings, but the authority for this statement is doubtful<sup>2</sup>. The right to elect a coroner for London appears to have been granted to the citizens by Henry I<sup>3</sup>. In 1194 the justices in eyre were directed to see that in every county three knights and a clerk as custodians of the pleas of the Crown should be chosen<sup>4</sup>. The office may, therefore, be safely assumed to have existed at least as early as the beginning of the thirteenth century, and there is other evidence to show that officers having powers similar to those of coroners were in existence before that date<sup>5</sup>.

It is to be noticed that, while the officer whom the citizens of London were empowered to elect under the charter of Henry I was to hold pleas of the Crown as well as to keep the records, the officers whom the justices were to see appointed in each county were only to keep the pleas. This curtailment in the duties of the office was confirmed by the provision of Magna Carta<sup>6</sup> that 'no sheriff, constable, escheator, coroner, nor any of our bailiffs shall hold pleas of our Crown'.

1 'This is a very ancient and important office in the realm of England': *Re Ward* (1861) 3 De GF & J 700 per Lord Campbell LC.

2 2 Co Inst 31, cites the Mirror of Justice, Book 1 c 3, where, under the heading 'Of the Original Constitutions', it is stated that King Alfred caused his earls to assemble in Parliament twice a year, and under that statute divers ordinances were made by divers Kings down to the present time (Edward I), and 'auxi ordains fuer coroners in chescun county et viscounts a garder le peace quant les countees soy demisterent del gard'; and the various powers and duties of coroners are thereafter set out. The institution of the office of coroner is thus made to appear contemporaneous with that of sheriff, which is known to have existed in Anglo-Saxon times. The worthlessness of the Mirror of Justice, however, as evidence of the jurisprudence of Anglo-Saxon times is now generally acknowledged: see Selden Society's Publications vol 7, Introduction to the Mirror of Justice. In the rhyming charter said to have been granted by Athelstan to St John of Beverley there is an allusion to the coroner (Dugdale's Monasticon Anglicanum 2, 130), but this charter is probably apocryphal. In Vin Abr, Coroner, A, a statement is adopted from Nath Bacon's treatise 'Of Government', c 32 s 2, where it is said: 'It is evident he (the coroner) was an officer in Alfred's time, for that King put a judge to death for sentencing one to suffer death upon the coroner's record without allowing the delinquent liberty of traverse'. The authority given by Bacon for this statement is the Mirror of Justice, Book 5 c 1, where the case is stated: 'Culling was taken and tortured until he confessed a mortal sin, and this he did to be quit of further torture, and Osketel judged him to death on his confession made to the coroner, without trying the truth of the allegation as to the torture, and the other facts. And besides this the coroners, officers, and assessors, and those who tortured folk, and those who could have disturbed the false judgments, but did not do so, were hanged whenever the justices were hanged' (Selden Society's Publications vol 7, Mirror of Justice 169).

3 The charter of Henry I to the citizens of London grants 'justitiarium qualem voluerint de seipsis ad custodiendum placita coronae meae et eadem placitanda'. This right to appoint was left unaffected at the abolition of franchise coronerships: see the Coroners (Amendment) Act 1926 s 4(5)(c) (repealed). As to the present position see PARA 907 post.

4 See Stubbs, Select Charters (9th Edn) 254, c 20.

5 Selden Society's Publications vol 9, Select Coroners' Rolls xv. A grant was made by Richard I to the burgesses of Colchester 'quod ipsi ponant de seipsis justit[iarium] ad servandum placita coronae nostrae et ad placitandum eadem placita infra burgum suum'. In the Assize Rolls, 39 Hen 3, the burgesses present to the justices in eyre that they ought to appoint from their own burgesses 'coronatores ad inquisitiones faciendas de

morte hominis et omnimoda attachiamenta coronae facienda sine presentia justic qui sacramenta eorundem capiant vel vicecomitis vel alicujus alius ex p domini regis, et dicunt quod hoc faciunt ex concessu Ricardi regis avunculi dom regis nunc' (Selden Society's Publications vol 9, Select Coroners' Rolls xxxvii).

6 25 Edw 1 (Magna Carta) (1297) c 17 (repealed).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(1) HISTORY AND CLASSIFICATION/904. Origin of the name and status of the court.

#### **904. Origin of the name and status of the court.**

The name of coroner is to be attributed to the duties exercised by that officer with regard to the pleas of the Crown; and the names 'custodes placitorum coronae', 'coronatores' and 'coronarii' are in early times used interchangeably<sup>1</sup>.

The coroner's court is a court of record<sup>2</sup>.

The records of a coroner's court are public records for the purposes of the Public Records Act 1958<sup>3</sup>; and, for this purpose, 'records' includes not only written records but records conveying information by other means whatsoever<sup>4</sup>.

1 Selden Society's Publications vol 9, Select Coroners' Rolls xvi note.

2 4 Co Inst 271; Com Dig Officer G 5; *Garnett v Ferrand* (1827) 6 B & C 611 at 625 per Lord Tenterden CJ; *Thomas v Churton* (1862) 2 B & S 475 at 478 per Crompton J; *R v West Yorkshire Coroner, ex p Smith (No 2)* [1985] QB 1096, [1985] 1 All ER 100, DC; but see the doubt expressed in *Jewison v Dyson* (1842) 9 M & W 540 at 586 per Lord Abinger. The coroner's court has also been considered to be a court of record in Canada (see *Davidson v Garrett* (1899) 30 OR 653 at 656, CA; *R v Hammond* (1899) 29 OR 211 at 225) and in Australia (see *Chippett v Thompson* (1868) 7 SRNSW 349). As to the characteristics of courts of record see COURTS vol 10 (Reissue) PARA 308. As an inferior court of record, a coroner's court has the power to impose a fine for contempt committed in the face of the court only: see *R v West Yorkshire Coroner, ex p Smith (No 2)* supra; and PARA 1019 post.

3 See the Public Records Act 1958 s 10(1), Sch 1 para 4(1)(f); and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 835.

4 See *ibid* s 10(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 835.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(1) HISTORY AND CLASSIFICATION/905. Classification of coroners.

### **905. Classification of coroners.**

Coroners are of the following three kinds:

- 9 (1) coroners ex officio<sup>1</sup>;
- 10 (2) district coroners<sup>2</sup>; and
- 11 (3) franchise coroners<sup>3</sup>, the only examples of such coroners now being the Queen's coroner and attorney<sup>4</sup> and the coroner of the Queen's household<sup>5</sup>.

1 See PARA 906 post.

2 I.e. coroners appointed under the Coroners Act 1988: see PARA 907 post.

3 'Franchise coroner' originally meant a coroner appointed for a town corporate, liberty, lordship, manor, university or other place the coroner for which had before 16 September 1887 been appointed by any lord, or otherwise than by election of the freeholders of a county or part of a county or by the council of a borough: see the Coroners Act 1887 s 42 (repealed); and the Coroners (Amendment) Act 1926 s 34(2) (repealed). 'Franchise coroner' also included the coroner of the Queen's household, a coroner or deputy coroner for the jurisdiction of the Admiralty and a coroner appointed by the Queen in right of Her Duchy of Lancaster, the power to appoint in the last two cases having been relinquished in accordance with the Coroners (Amendment) Act 1926 s 4(3), (4) (repealed).

Section 4 (repealed) did not, however, apply with respect to the Queen's coroner and attorney, the coroner of the Queen's household, the coroner for the City of London or the coroner for the Isles of Scilly: see s 4(5) (repealed).

The coroner for the City of London is now a district coroner appointed under the Coroners Act 1988: see s 1(1A) (g) (as added); and PARA 908 head (7) post.

The Coroners Act 1988 applies in relation to the Isles of Scilly as if those Isles were a non-metropolitan county and the Council of those Isles were the council of that county: s 34(1). The power conferred on the Secretary of State by the Local Government Act 1972 s 265 (see LOCAL GOVERNMENT vol 69 (2009) PARA 36) includes power to make an order providing for regulating the application of the Coroners Act 1988 to those Isles otherwise than as mentioned in s 34(1); and such an order may amend or repeal s 34(1) accordingly: s 34(2). For these purposes, any reference to a council of a non-metropolitan county includes in relation to an area for which there is a district council but no county council a reference to a district council; and any reference to a councillor of a non-metropolitan county is to be construed accordingly: s 35(1A) (added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (9)). As to local government areas and authorities see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq.

4 As to the Queen's coroner and attorney see PARA 934 post. The Queen's coroner and attorney did not fall within the definition of 'franchise coroner' in the Coroners Act 1887 s 42 (repealed) (see note 3 supra) but is nevertheless usually considered to be a franchise coroner.

5 As to the coroner of the Queen's household see PARA 935 post.

### **UPDATE**

### **905 Classification of coroners**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/ (2) CORONERS EX OFFICIO/906. Coroners ex officio.

## **(2) CORONERS EX OFFICIO**

### **906. Coroners ex officio.**

Originally the Lord Chief Justice of the King's Bench could view the body of a person killed in rebellion and send his record of this to the King's Bench, thus acting in the same way as a coroner<sup>1</sup>. This power was later extended to the Lord Chief Justice<sup>2</sup> and all the judges of the High Court<sup>3</sup> and was given statutory recognition in 1887<sup>4</sup>, jurisdiction as coroner being exercisable anywhere in England and Wales.

Nothing in the Coroners Act 1988 prejudices or affects the jurisdiction of a judge exercising the jurisdiction of a coroner by virtue of his office<sup>5</sup>.

1 2 Hale PC 53.

2 *Wardens and Commonalty of Sadlers' Case* (1588) 4 Co Rep 54b at 57b; *Barclees Case* (1658) 2 Sid 101 per Glyn CJ ('it seems that I can hold an inquest in any place in the kingdom. For every Chief Justice is coroner of all England').

3 4 Co Inst 73. Before the Supreme Court of Judicature Act 1873, the judges of the Queen's Bench alone exercised or had a coroner's jurisdiction; but such jurisdiction was extended to and became exercisable by all the judges of the High Court by virtue of s 12 (repealed: see now the Supreme Court Act 1981 s 44; and COURTS vol 10 (Reissue) PARA 619).

4 Repealed by the Coroners Act 1887 s 34 (repealed): see now the text and note 5 infra.

5 Coroners Act 1988 s 33(1). However, the Local Government Act 1972 s 220(1) (repealed) provided that any right to appoint or be a coroner of any description, other than a coroner for a county, Greater London or the City of London, was extinguished, but this did not affect Her Majesty's right to appoint the Queen's coroner and attorney or the Coroner of the Queen's household. Quaere, therefore, whether judges of the High Court may still act as coroner. The point is, however, of academic interest only as there is no recent record of a judge acting as a coroner.

## **UPDATE**

### **906 Coroners ex officio**

NOTE 3--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/907. Mode of appointment.

### **(3) DISTRICT CORONERS**

#### **(i) Appointment**

##### **907. Mode of appointment.**

Coroners must be appointed:

- 12 (1) for each coroner's district<sup>1</sup> in a metropolitan county, in a special non-metropolitan county<sup>2</sup>, in Greater London or in Wales;
- 13 (2) for each coroner's district constituted by an order under the Local Government Act 1992<sup>3</sup> which lies partly in each of two or more non-metropolitan counties;
- 14 (3) for each non-metropolitan county in England, other than a special non-metropolitan county, none of which is included in such a coroner's district as is mentioned in head (2) above;
- 15 (4) in the case of a non-metropolitan county in England part of which is included in such a coroner's district as is mentioned in head (2) above, for so much of that county as is not so included; and
- 16 (5) for the City of London<sup>4</sup>.

Upon his appointment it is customary for a coroner to make a declaration of office<sup>5</sup>.

<sup>1</sup> As to coroners' districts in England see PARA 909 post; and as to coroners' districts in Wales see PARA 910 post.

<sup>2</sup> 'Special non-metropolitan county' means a non-metropolitan county in which there are two or more local government districts and for which there is no county council: Coroners Act 1988 s 35(1) (definition added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(11)).

<sup>3</sup> ie under the Local Government Act 1992 s 17 (as amended) (implementation of recommendations by order): see ELECTIONS AND REFERENDUMS.

<sup>4</sup> Coroners Act 1988 s 1(1) (substituted by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (2); and amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(2), (3)). For the purposes of the Coroners Act 1988, 'the City' means the City of London, including the Inner Temple and the Middle Temple: Coroners Act 1988 s 35(1). The office of coroner appointed under s 1 (as amended) is designated for the purposes of the Constitutional Reform Act 2005 s 118 (extension of discipline provisions): Discipline of Coroners (Designation) Order 2006, SI 2006/677, art 2.

The Coroners Act 1988 s 1 (as amended) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

<sup>5</sup> For the prescribed form of declaration of office of coroner see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4, Form 1. The forms set out in Sch 4 (as amended), with such modifications as circumstances may require, may be used for the purposes for which they are expressed to be applicable: r 60.

#### **UPDATE**

##### **907 Mode of appointment**



NOTE 3--Local Government Act 1992 s 17 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7.

TEXT AND NOTE 4--1988 Act s 1(1) further amended: Local Government and Public Involvement in Health Act 2007 Sch 1 para 15(a).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/908. Councils which may make appointment.

### **908. Councils which may make appointment.**

Coroners must be appointed by the relevant council, that is to say:

- 17 (1) in the case of a coroner's district consisting of or included in a metropolitan district, special non-metropolitan district<sup>1</sup> or London borough, the council of that district or borough;
- 18 (2) in the case of a coroner's district consisting of two or more metropolitan districts, special non-metropolitan districts or London boroughs, such one of the councils of those districts or boroughs as may be designated by an order made by the Secretary of State by statutory instrument<sup>2</sup>;
- 19 (3) in the case of a coroner's district consisting of or included in a Welsh principal area<sup>3</sup>, the council of that area;
- 20 (4) in the case of a coroner's district lying partly in each of two or more Welsh principal areas, such one of the councils of those areas as may be designated by an order made by statutory instrument<sup>4</sup>;
- 21 (5) in the case of a coroner's district constituted by an order under the Local Government Act 1992 which lies partly in each of two or more non-metropolitan counties<sup>5</sup>, such one of the councils of the non-metropolitan counties in question as may be designated by an order under the Local Government Act 1992<sup>6</sup> or the Regional Assemblies (Preparations) Act 2003<sup>7</sup>;
- 22 (6) in the case of a non-metropolitan county in England, other than a special non-metropolitan county, none of which is included in such a coroner's district as is mentioned in head (5) above<sup>8</sup> or a non-metropolitan county in England part of which is included in such a coroner's district as is mentioned in head (5) above<sup>9</sup>, the council of the non-metropolitan county in question; and
- 23 (7) in the case of the City of London<sup>10</sup>, the Common Council<sup>11</sup>.

A relevant council falling within head (1) or head (2) above must not appoint a coroner except with the approval of the Secretary of State; and a relevant council falling within head (2), (4) or (5) above must not appoint a coroner except after consultation with the other council or councils in question<sup>12</sup>.

1 'Special non-metropolitan district' means a district in a special non-metropolitan county: Coroners Act 1988 s 35(1) (definition added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(11)). For the meaning of 'special non-metropolitan county' see PARA 907 note 2 ante.

2 At the date at which this volume states the law, no such order had been made but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Coroners' Districts (Designation of Relevant Councils) Order 1985, SI 1985/1933, has effect as if so made. The following councils are designated as the relevant councils for the following coroners' districts (see art 2, Schedule):

- 1 (1) in Greater London:
  1. (a) the relevant council for the Inner North London coroner's district is the council of the London borough of Camden;
  - 1
  2. (b) the relevant council for the Inner South London coroner's district is the council of the London borough of Southwark;

2

3. (c) the relevant council for the Inner West London coroner's district is the council of the City of Westminster;  
3
4. (d) the relevant council for the Eastern coroner's district is the council of the London borough of Waltham Forest;  
4
5. (e) the relevant council for the Northern coroner's district is the council of the London borough of Haringey;  
5
6. (f) the relevant council for the Southern coroner's district is the council of the London borough of Croydon;  
6
7. (g) the relevant council for the Western coroner's district is the council of the London borough of Hammersmith;  
7

2 (2) in Greater Manchester:

8. (a) the relevant council for the North coroner's district is the council of the metropolitan borough of Rochdale;  
8
9. (b) the relevant council for the South coroner's district is the council of the metropolitan borough of Stockport;  
9
10. (c) the relevant council for the West coroner's district is the council of the metropolitan borough of Bolton;  
10

3 (3) in Merseyside the relevant council for Knowsley, St Helens and Sefton coroner's district is the council of the metropolitan borough of Sefton;

4 (4) in South Yorkshire:

11. (a) the relevant council for the East coroner's district is the council of the metropolitan borough of Doncaster;  
11
12. (b) the relevant council for the West coroner's district is the council of the city of Sheffield;  
12

5 (5) in Tyne and Wear the relevant council for the Gateshead and South Tyneside coroner's district is the council of the metropolitan borough of South Tyneside;

6 (6) in the West Midlands the relevant council for the Birmingham coroner's district is the council of the City of Birmingham;

7 (7) in West Yorkshire:

13. (a) the relevant council for the Eastern coroner's district is the council of the City of Wakefield;  
13
14. (b) the relevant council for the Western coroner's district is the council of the City of Bradford.  
14

In any enactment, 'Secretary of State' means one of Her Majesty's principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. As to the office of Secretary of State see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 355.

3 For these purposes, 'Welsh principal area' means Welsh county or county borough: Coroners Act 1988 s 35(1) (definition added by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(10)). See further LOCAL GOVERNMENT vol 69 (2009) PARA 23.

4 As to the order that has been made see the Coroners' Districts (Designation of Relevant Councils) (Wales) Order 1996, SI 1996/662. For each coroner's district listed, being a coroner's district created by the Coroners' Districts (Wales) Order 1996, SI 1996/661, lying partly in each of two or more Welsh counties or county

boroughs, the council designated in the Coroners' Districts (Designation of Relevant Councils) (Wales) Order 1996, SI 1996/662, art 2, Schedule as the relevant council for the purposes of the Coroners Act 1988 is as follows:

- 8 (1) in the Bridgend and Glamorgan Valleys coroner's district the relevant council is Rhondda, Cynon, Taff county borough council;
- 9 (2) in the Cardiff and the Vale of Glamorgan coroner's district the relevant council is the Vale of Glamorgan county borough council;
- 10 (3) in the Central North Wales coroner's district the relevant council is Denbighshire county council;
- 11 (4) in the Gwent coroner's district the relevant council is Newport county borough council;
- 12 (5) in the North East Wales coroner's district the relevant council is Wrexham county borough council;
- 13 (6) in the North West Wales coroner's district the relevant council is Caernarfonshire and Merionethshire county council.

5 le in a case falling within the Coroners Act 1988 s 1(1)(b) (as substituted): see PARA 907 head (2) ante.

6 le under the Local Government Act 1992 s 17 (as amended) (implementation of recommendations by order): see ELECTIONS AND REFERENDUMS.

7 le under the Regional Assemblies (Preparations) Act 2003 s 17.

8 le in a case falling within the Coroners Act 1988 s 1(1)(c) (as substituted): see PARA 907 head (3) ante.

9 le in a case falling within ibid s 1(1)(d) (as substituted): see PARA 907 head (4) ante.

10 See PARA 907 note 4 ante.

11 Coroners Act 1988 s 1(1A) (added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (2); and amended by the Regional Assemblies (Preparations) Act 2003 s 17(6), Schedule para 2; and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(4), (5)). 'The Common Council' means the Common Council of the City of London; and 'common councillor' is to be construed accordingly: Coroners Act 1988 s 35(1).

Section 1 (as amended) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

12 Ibid s 1(2) (amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (3)).

## UPDATE

### 908 Councils which may make appointment

NOTE 6--Local Government Act 1992 s 17 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7.

NOTE 7--Regional Assemblies (Preparations) Act 2003 repealed: see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARAS 547-553.

TEXT AND NOTE 11--Coroners Act 1988 s 1(1A) further amended: Local Government and Public Involvement in Health Act 2007 Sch 1 para 15(b); Local Democracy, Economic Development and Construction Act 2009 Sch 7.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/909. Coroners' districts in England.

### **909. Coroners' districts in England.**

The Secretary of State<sup>1</sup> may by order divide, amalgamate or otherwise alter the coroners' districts for the time being existing in a metropolitan county, special non-metropolitan county<sup>2</sup> or Greater London<sup>3</sup>; and, before making any such order, the Secretary of State must consult the councils and coroners appearing to him to be affected by the order and such other persons as he thinks appropriate<sup>4</sup>.

The council of a non-metropolitan county in England may, and must, if directed to do so by the Secretary of State, after complying with such requirements as to notice and consideration of objections as may be prescribed, submit to the Secretary of State a draft order providing:

- 24 (1) for such alteration of any existing division of the county into coroners' districts as appears to it suitable; or
- 25 (2) where there is no such division, for the division of the county into such coroners' districts as it thinks expedient,

and the Secretary of State, after taking into consideration any objections to the draft made in the prescribed manner and within the prescribed time, may make the order, either in the terms of the draft submitted to him or with such modifications as he thinks fit<sup>5</sup>.

If, by reason of any such order, it is in the opinion of the Secretary of State necessary that the number of coroners for a non-metropolitan county should be increased:

- 26 (a) the council must appoint such number of additional coroners for that county as the Secretary of State may direct; and
- 27 (b) the statutory provisions relating to vacancies<sup>6</sup> apply with respect to any such appointment as if a vacancy had occurred in the office of coroner for that county<sup>7</sup>.

Where a non-metropolitan county in England is divided into coroners' districts, each of the coroners for that county must be assigned to one of those districts; and, where a non-metropolitan county is not so divided, the following provisions<sup>8</sup> have effect as if the whole of that county were a coroner's district<sup>9</sup>.

Except as provided by the Coroners Act 1988, a coroner appointed for or assigned to a coroner's district:

- 28 (i) is for all purposes to be regarded as a coroner for the whole administrative area<sup>10</sup> in England which includes that district; and
- 29 (ii) has the same jurisdiction, rights, powers and authorities throughout that area as if he had been appointed as coroner for that area or, as the case may be, had not been assigned to that district<sup>11</sup>.

These provisions<sup>12</sup> do not apply to a non-metropolitan county the whole of which is included in a coroner's district constituted by an order under the Local Government Act 1992 which lies partly in each of two or more non-metropolitan counties or a special non-metropolitan county<sup>13</sup>.

The power to make orders under these provisions is exercisable by statutory instrument; and a statutory instrument containing such an order must be laid before each House of Parliament

after being made<sup>14</sup>. An order altering any existing division of a county or for the division of a county into coroners' districts<sup>15</sup> must be published in the London Gazette and particulars of any such order must be published by the council of the county in such manner as may be prescribed<sup>16</sup>.

1 As to the Secretary of State see PARA 908 note 2 ante.

2 For the meaning of 'special non-metropolitan county' see PARA 907 note 2 ante.

3 For these purposes, unless the context otherwise requires, 'Greater London' does not include the City of London: Coroners Act 1988 s 35(1). See PARA 907 note 4 ante.

4 Ibid s 4(1) (amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(7)). The Coroners Act 1988 s 4 (as amended) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

5 Ibid s 4(2) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(4)). Before a council submits a draft order to the Secretary of State, the following requirements must, subject to any directions given by the Secretary of State as respects any particular occasion, be complied with: (1) notice of the intention to submit a draft order to the Secretary of State, of the effect of the draft order, of the place and times at which a copy of it can be inspected, and the period, being not less than one month, within which and the manner in which any objection may be lodged with the council, must be published in at least one newspaper circulating in the county, posted and kept posted for one month at or near the entrance to the council's office and sent to each coroner for the county; (2) every objection received within the period named in the notice must be taken into consideration by the council; (3) a notice must be published, posted and sent in the same manner as is prescribed in head (1) supra showing: (a) that the draft order is being submitted to the Secretary of State; (b) any alterations which have been made in the draft order since notice was given under head (1) supra; (c) that any objections for consideration by the Secretary of State must be made in writing and sent within one month of the submission of the draft order: Coroners (Orders as to Districts) Rules 1927, SR & O 1927/343, r 3. Any objections for consideration by the Secretary of State must be made and sent in the manner and within the time specified in head (3) supra: r 4. Particulars of any order made must be published by the council by inserting in at least one newspaper circulating in the county, and posting, at or near the entrance to the council's office, a copy of the order or notice giving particulars of the order, and stating where a copy may be inspected: r 5.

In the application of the Coroners Act 1988 s 4 (as amended) to a non-metropolitan county part of which is included in such a coroner's district as is mentioned in s 1(1)(b) (as substituted) (see PARA 907 head (2) ante), any reference in s 4(2)(a), (b) (see heads (1), (2) in the text) and s 4(3) and s 4(4) (as amended) (see the text and notes 6-9 infra) to a county is to be construed as a reference to so much of that county as is not so included: s 4(5B) (added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(5)).

In exercise of the power so conferred the Secretary of State has made a number of orders: see eg the West Midlands (Coroners' Districts) Order 2004, SI 2004/1799; and the Berkshire (Coroners' Districts) Order 2004, SI 2004/536. For a complete list of the coroners' districts in England as at 2002 see the Treasure Act 1996 Code of Practice (Revised) (England and Wales) Appendix 2 Pt A.

6 Ie the Coroners Act 1988 s 1(3): see PARA 912 post.

7 Ibid s 4(3). See also note 5 supra.

8 Ie ibid ss 4-37 (as amended): see PARA 910 et seq post.

9 Ibid s 4(4) (amended by the Local Government (Wales) Act 1994 Sch 16 para 82(4)). See also note 5 supra.

10 For these purposes, 'administrative area' means, subject to the Coroners Act 1988 s 35(1B) (as added), a metropolitan or non-metropolitan county in England or Greater London: s 35(1) (definition amended by the Local Government (Wales) Act 1994 Sch 16 para 82(10); and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (9)(a)). In the application of the Coroners Act 1988 s 4(5) (as amended), s 5(3) (see PARA 915 post) and s 13(2) (see PARA 1073 post) to a non-metropolitan county part of which is included in such a coroner's district as is mentioned in s 1(1)(b) (as substituted) (see PARA 907 head (2) ante), any reference in those provisions to an administrative area is to be construed as a reference to so much of that county as is not so included: s 35(1B) (added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (9)).

11 Coroners Act 1988 s 4(5) (amended by the Local Government (Wales) Act 1994 Sch 16 para 82(4)).

12     Ie the Coroners Act 1988 s 4(2)-(5) (as amended): see the text and notes 1-11 supra.

13     Ibid s 4(5A) (added by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(5); and amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(8)).

14     Coroners Act 1988 s 4(6).

15     Ie an order under ibid s 4(2) (as amended): see the text to note 5 supra.

16     Ibid s 4(7). For these purposes, 'prescribed' means prescribed by the Secretary of State either by general rules made by statutory instrument or by directions given as respects any particular occasion: s 4(8).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/910. Coroners' districts in Wales.

### **910. Coroners' districts in Wales.**

The Secretary of State<sup>1</sup> may by order divide, amalgamate or otherwise alter:

- 30 (1) any coroner's district for the time being existing in Wales; or
- 31 (2) any such coroners' districts<sup>2</sup>.

Before making any such order, the Secretary of State must consult the councils and coroners appearing to him to be affected by the order and such other persons as he thinks appropriate<sup>3</sup>. An order made under the above provisions may make such incidental, consequential, transitional or supplemental provision as appears to the Secretary of State to be appropriate<sup>4</sup>.

The Secretary of State may, in relation to any area in Wales (the 'review area'), direct the council or councils for each Welsh principal area<sup>5</sup> which, or any part of which, falls within the review area to consider any of the following questions:

- 32 (a) whether any alteration should be made in a boundary between coroners' districts which falls within the review area;
- 33 (b) whether a new coroner's district should be created for the whole or any part of the review area;
- 34 (c) whether a coroner's district which falls wholly within the review area should be abolished<sup>6</sup>.

The council or councils to which such a direction is given must submit its or their conclusions to the Secretary of State, together with a statement of the reasons for reaching those conclusions<sup>7</sup>. In making such an order in a case where he has given a direction, the Secretary of State must have regard to any proposals duly made to him<sup>8</sup>.

Where the Secretary of State intends to give effect to any such proposals without modification, these provisions<sup>9</sup> do not require him to consult the council or councils who made those proposals<sup>10</sup>.

Except as provided by the Coroners Act 1988, a coroner appointed for any coroner's district in Wales:

- 35 (i) is for all purposes to be regarded as a coroner for the whole of Wales; and
- 36 (ii) has the same jurisdiction, rights, powers and authorities throughout Wales as if he had been appointed as coroner for the whole of Wales<sup>11</sup>.

The power to make orders under these provisions is exercisable by statutory instrument<sup>12</sup>; and any such statutory instrument must be laid before each House of Parliament after being made<sup>13</sup>.

1 As to the Secretary of State see PARA 908 note 2 ante.

2 Coroners Act 1988 s 4A(1) (s 4A added by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(5)). The Coroners Act 1988 s 4A (as added) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.



In exercise of the power so conferred the Secretary of State has made the Coroners' Districts (Wales) Order 1996, SI 1996/661, which came into force on 1 April 1996 (see art 1), and the Coroners' Districts (Designation of Relevant Councils) (Wales) Order 1996, SI 1996/662, which also came into force on 1 April 1996 (see art 1). See PARA 908 note 4 ante. For a complete list of the coroners' districts in Wales as at 2002 see the Treasure Act 1996 Code of Practice (Revised) (England and Wales) Appendix 2 Pt A.

- 3 Coroners Act 1988 s 4A(2) (as added: see note 2 supra).
- 4 Ibid s 4A(7) (as added: see note 2 supra).
- 5 For the meaning of 'Welsh principal area' see PARA 908 note 3 ante.
- 6 Coroners Act 1988 s 4A(3) (as added: see note 2 supra).
- 7 Ibid s 4A(4) (as added: see note 2 supra).
- 8 Ibid s 4A(5) (as added: see note 2 supra).
- 9 Ie ibid s 4A(2) (as added): see the text to note 3 supra.
- 10 Ibid s 4A(6) (as added: see note 2 supra).
- 11 Ibid s 4A(8) (as added: see note 2 supra).
- 12 Ibid s 4A(9) (as added: see note 2 supra).
- 13 Ibid s 4A(10) (as added: see note 2 supra).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/911. Restrictions on full-time coroners.

**911. Restrictions on full-time coroners.**

No person holding as a full-time<sup>1</sup> appointment the office of coroner<sup>2</sup> may:

- 37 (1) provide any advocacy or litigation services, in any jurisdiction;
- 38 (2) provide any conveyancing or probate services;
- 39 (3) practise as a barrister, solicitor, public notary or licensed conveyancer, or be indirectly concerned in any such practice;
- 40 (4) practise as an advocate or solicitor in Scotland, or be indirectly concerned in any such practice; or
- 41 (5) act for any remuneration to himself as an arbitrator or umpire<sup>3</sup>.

There is no statutory bar on a full-time coroner who is a medical practitioner providing medical services.

1 The expression 'full-time', although used in the Courts and Legal Services Act 1990 s 75, is not defined.

2 The Courts and Legal Services Act 1990 refers to appointment under the Coroners Act 1988 s 2. Coroners are, however, appointed under s 1 (as substituted and amended) (see PARA 907 ante), s 2 (as amended) merely prescribing the qualifications for appointment (see PARA 913 post).

3 See the Courts and Legal Services Act 1990 s 75, Sch 11.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(i) Appointment/912. Filling of vacancies.

**912. Filling of vacancies.**

Where a vacancy occurs in the office of coroner, the relevant council<sup>1</sup> must<sup>2</sup>:

- 42 (1) immediately give notice of the vacancy to the Secretary of State<sup>3</sup>;
- 43 (2) within three months of the vacancy occurring or within such further period as the Secretary of State may allow, appoint a person to that office; and
- 44 (3) immediately after making the appointment, give notice of the appointment to the Secretary of State<sup>4</sup>.

1 For the meaning of 'relevant council' see PARA 908 ante.

2 Is subject to the Coroners Act 1988 s 1(2) (as amended): see PARA 908 ante.

3 As to the Secretary of State see PARA 908 note 2 ante.

4 Coroners Act 1988 s 1(3). Section 1(3) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(ii) Qualifications/913. Qualification for appointment.

## **(ii) Qualifications**

### **913. Qualification for appointment.**

No person is qualified to be appointed as coroner unless he has a five-year general qualification<sup>1</sup> or he is a legally qualified medical practitioner<sup>2</sup> of not less than five years' standing<sup>3</sup>.

<sup>1</sup>     le within the meaning of the Courts and Legal Services Act 1990 s 71: see LEGAL PROFESSIONS vol 65 (2008) PARA 742.

<sup>2</sup>     For the meaning of 'legally qualified medical practitioner' cf the Medical Act 1983 s 56(1), Sch 6 para 11(1) (in any enactment passed before 1 January 1979 the expression 'legally qualified medical practitioner' is to be construed to mean a fully registered person); and see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 4.

<sup>3</sup>     Coroners Act 1988 s 2(1) (amended by the Courts and Legal Services Act 1990 ss 71(2), 125(7), Sch 10 para 70, Sch 20). The Coroners Act 1988 s 2(1) (as amended) applies to the office of deputy or assistant deputy coroner as it applies to the office of coroner: see s 6(4); and PARA 932 post. Section 2(1) (as amended) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(ii) Qualifications/914. Disqualifications.

## **914. Disqualifications.**

A person is disqualified:

- 45 (1) so long as he is a councillor of a metropolitan district, special non-metropolitan district<sup>1</sup> or London borough, and for six months after he ceases to be one, for being a coroner for a coroner's district which consists of, includes or is included in that metropolitan district, special non-metropolitan district or London borough<sup>2</sup>;
- 46 (2) so long as he is a councillor of a Welsh principal area<sup>3</sup>, and for six months after he ceases to be one, for being a coroner for a coroner's district which, or any part of which, falls within that area<sup>4</sup>;
- 47 (3) so long as he is an alderman or a councillor of a non-metropolitan county in England, and for six months after he ceases to be one, for being, in the case of a county none of which is included in a coroner's district constituted by an order under the Local Government Act 1992 which lies partly in each of two or more non-metropolitan counties<sup>5</sup>, a coroner for that county and, in the case of a county the whole or part of which is included in such a coroner's district<sup>6</sup>, a coroner for that coroner's district and for so much of that county, if any, as is not so included<sup>7</sup>;
- 48 (4) so long as he is an alderman of the City of London<sup>8</sup> or a common councillor<sup>9</sup>, and for six months after he ceases to be one, for being a coroner for the City<sup>10</sup>.

1 For the meaning of 'special non-metropolitan district' see PARA 908 note 1 ante.

2 Coroners Act 1988 s 2(2) (amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(6)). The provisions of the Coroners Act 1988 s 2(2), (3), (4) (s 2(2), (3) as amended) apply in relation to, or to persons holding, the office of deputy coroner as they apply in relation to, or to persons holding, the office of coroner: see s 6(4); and PARA 932 post. Section 2 (as amended) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

3 For the meaning of 'Welsh principal area' see PARA 908 note 3 ante.

4 Coroners Act 1988 s 2(2A) (added by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(3)).

5 Is a district such as is mentioned in the Coroners Act 1988 s 1(1)(b) (as substituted): see PARA 907 head (2) ante.

6 See note 5 supra.

7 Coroners Act 1988 s 2(3) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(3); and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (4)). See also note 2 supra.

8 See PARA 907 note 4 ante.

9 As to the meaning of 'common councillor' see PARA 908 note 11 ante.

10 Coroners Act 1988 s 2(4). See also note 2 supra.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iii) Local Jurisdiction/915. Extent of jurisdiction.

### **(iii) Local Jurisdiction**

#### **915. Extent of jurisdiction.**

An inquest into a death must be held<sup>1</sup> only by the coroner within whose district the body lies<sup>2</sup>.

Although a coroner appointed for or assigned to a coroner's district in England is for all purposes to be regarded as a coroner for the whole administrative area which includes that district<sup>3</sup>, and a coroner appointed for any coroner's district in Wales is for all purposes to be regarded as a coroner for the whole of Wales<sup>4</sup>, he must hold inquests<sup>5</sup> only within his district<sup>6</sup>. A coroner may, however, act as coroner for another district in the same administrative area:

- 49 (1) during the illness, incapacity or unavoidable absence of the coroner for that district; or
- 50 (2) where there is a vacancy in the office of coroner for that district,

and the inquisition returned in respect of an inquest so held must certify the cause of the coroner's holding the inquest and is conclusive evidence of any matter stated in it which falls within head (1) or head (2) above<sup>7</sup>.

1    Ie subject to the Coroners Act 1988 s 5(3) (see the text and note 7 infra), s 13 (order to hold inquest: see PARA 1073 post), s 14 (inquest out of jurisdiction: see PARA 954 post) and s 15 (inquest where body destroyed or irrecoverable: see PARA 957 post).

2    Ibid s 5(1). For these purposes, it is immaterial where the cause of death arose or where the death occurred, provided that the body of a deceased person is lying within his district: see s 8(1); and PARA 939 post. Section 5 does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

3    See ibid s 4(5)(a) (as amended); and PARA 909 head (i) ante.

4    See ibid s 4A(8)(a) (as added); and PARA 910 head (i) ante.

5    Ie subject to ibid s 5(3) (see the text and note 7 infra) and s 13 (see PARA 1073 post).

6    Ibid s 5(2). As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante. As to a coroner's jurisdiction where the body is removed outside his area for a post-mortem examination see PARA 967 post.

7    Ibid s 5(3). As to the form and content of the inquisition see PARA 1045 et seq post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iii) Local Jurisdiction/916. Deaths at sea and in aircraft.

### **916. Deaths at sea and in aircraft.**

The limit of jurisdiction of a coroner of a coastal district has not been clearly defined. While territorial waters are deemed to be within the territorial sovereignty of Her Majesty for certain purposes<sup>1</sup>, this does not make them part of the coastal counties. A ship in harbour is, however, deemed to be within the county<sup>2</sup>.

By common law the boundary of a parish does not, until the contrary is proved, extend beyond low-water mark<sup>3</sup>. As a parish is part of a county, low-water mark appears to be the limit of a coroner's jurisdiction, but, as a coroner's duty to conduct an inquest derives from the presence of a body lying within his district<sup>4</sup>, it follows that the coroner for the place where the body was landed has clear power to act. This applies equally where deaths have occurred in aircraft or on oil rigs.

In certain circumstances a coroner may be directed by the Secretary of State to hold an inquest where a body has been destroyed by fire or otherwise or is lying in a place from which it cannot be recovered<sup>5</sup>.

1 See the Territorial Waters Jurisdiction Act 1878; the Territorial Sea Act 1987; and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARA 1055-1056.

2 *R v Keyn* (1876) 2 Ex D 63 at 82; *R v Soleguard* (1738) Andr 231.

3 *R v Musson* (1858) 8 E & B 900.

4 See PARAS 915 ante, 953 post.

5 See the Coroners Act 1988 s 15; and PARA 957 post. As to the Secretary of State see PARA 908 note 2 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iii) Local Jurisdiction/917. Deaths abroad.

### **917. Deaths abroad.**

Where a death has occurred abroad and the body has been brought into England or Wales for disposal, the coroner for the district in which it is lying has jurisdiction<sup>1</sup>. Where a coroner has been informed that the dead body of a person is lying within his district<sup>2</sup> and there is reasonable cause to suspect that the death was a violent or unnatural death, or a sudden death of which the cause is unknown, or that the deceased has died in a place or in such circumstances as to require an inquest under any other Act, he must hold an inquest, whether the cause of death arose within his jurisdiction or not<sup>3</sup>.

If it appears to a coroner that there is reason to suspect that a death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public, he should proceed to summon a jury<sup>4</sup>, even though the death occurred abroad<sup>5</sup>.

If no order is given by the coroner, the registrar of deaths for the sub-district in which it is intended to dispose of the body, where it appears that the death is not required by law to be registered in England or Wales, must, on the application of the person procuring the disposal, give a certificate to that effect<sup>6</sup>. There is, however, no statutory requirement to register a death occurring outside England and Wales<sup>7</sup>.

1 *R v West Yorkshire Coroner, ex p Smith* [1983] QB 335, [1982] 3 All ER 1098, CA. The difficulties of obtaining evidence concerning a death which has occurred abroad are considerable. The coroner has no power to summon witnesses from foreign countries or to require the production of documents. The assistance of foreign governments and their agencies varies considerably. Reliance will probably have to be placed on documentary hearsay evidence: see PARA 1020 post. In such circumstances there is little prospect of an adequate inquiry; and, if the body is not returned to England or Wales, there can be no coronial inquiry at all.

2 *Cf R v South London Coroner, ex p Weeks* (6 December 1996, unreported) (where the coroner was not informed until some months after the body had been buried).

3 *R v West Yorkshire Coroner, ex p Smith* [1983] QB 335, [1982] 3 All ER 1098, CA. See PARA 939 post.

4 Under the Coroners Act 1988 s 8(3)(d): see PARA 979 head (4) post.

5 *Re Neal* (1995) 37 BMLR 164, DC (death of woman in a holiday apartment in Spain from carbon monoxide poisoning, the source of which was an incorrectly installed and badly maintained water heater).

6 Births and Deaths Registration Act 1953 s 24(2). As to the registration of deaths generally see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq.

7 See *ibid* s 15; and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iv) Salary and Fees/918. Amount of salary.

#### **(iv) Salary and Fees**

##### **918. Amount of salary.**

A coroner must be paid by the relevant council<sup>1</sup> an annual salary at such rate as may be fixed by agreement<sup>2</sup> between the coroner and that council<sup>3</sup>. In fixing the rate of the salary payable to a coroner, regard must be had to the nature and extent of his duties and to all the circumstances of the case<sup>4</sup>. The salary of a coroner is deemed to accrue from day to day and, in the absence of agreement to the contrary, is payable quarterly<sup>5</sup>.

1 For the meaning of 'relevant council' see PARA 908 ante.

2 As to the fixing of salary in the case of disagreement see PARA 919 post.

3 Coroners Act 1988 s 3(1), Sch 1 para 1(1). Schedule 1 does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

The present negotiating forum for coroners' salaries is the Joint Negotiating Committee for Coroners, on which the Local Government Association and the Coroners' Society of England and Wales are represented.

4 Ibid Sch 1 para 1(3).

5 Ibid Sch 1 para 4.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iv) Salary and Fees/919. Fixing of salary in case of disagreement relating to proposed alteration.

**919. Fixing of salary in case of disagreement relating to proposed alteration.**

If at any time a coroner and the relevant council<sup>1</sup> cannot agree with respect to any proposed alteration of the rate of his salary:

- 51 (1) the Secretary of State<sup>2</sup> may, on the application of either party, fix the rate of that salary at such rate as he thinks proper; and
- 52 (2) the rate so fixed comes into force as from such date as he may determine<sup>3</sup>.

A date so determined must be not less than three years from the date when the rate of the coroner's salary as last fixed came into force, unless in the opinion of the Secretary of State the coroner's district has in the meantime been materially altered<sup>4</sup>.

If the Secretary of State fixes the salary of a coroner, his decision is final and no appeal lies to a court of law<sup>5</sup>.

1 For the meaning of 'relevant council' see PARA 908 ante.

2 As to the Secretary of State see PARA 908 note 2 ante.

3 Coroners Act 1988 s 3(1), Sch 1 para 1(2). In fixing the rate of the salary payable to a coroner, regard is to be had to the nature and extent of his duties and to all the circumstances of the case: Sch 1 para 1(3). Schedule 1 does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

4 Ibid Sch 1 para 1(4).

5 *Ex p Driffield* (1871) LR 7 QB 207. See also *In the matter of an application by Her Majesty's Coroner for South Down for Judicial Review* [2004] NIQB 86 (Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) Protocol 1 art 1 has no application to a claim to increased remuneration).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iv) Salary and Fees/920. Remedy for non-payment.

**920. Remedy for non-payment.**

The remedy for non-payment of salary to a coroner is by an application to the High Court by way of judicial review for a mandatory order against the relevant council<sup>1</sup>.

<sup>1</sup> *Baxter v LCC* (1890) 63 LT 767. As to mandatory orders see JUDICIAL REVIEW vol 61 (2010) PARA 703 et seq. As to the procedure to be followed in claims for judicial review see CPR Pt 54; and JUDICIAL REVIEW vol 61 (2010) PARA 659 et seq. As to claims under the previous legislation see *Baxter v LCC* supra (claim for a declaration of rights would not lie); cf *Guaranty Trust Co of New York v Hannay & Co* [1915] 2 KB 536, CA (power to make declarations); *Hanson v Radcliffe UDC* [1922] 2 Ch 490 at 507, CA per Lord Sterndale MR. See also *Miles v Wakefield Metropolitan District Council* [1987] AC 539, [1987] 1 All ER 1089, HL (superintendent registrar of births, marriages and deaths).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iv) Salary and Fees/921. Right to accept fees and other remuneration.

**921. Right to accept fees and other remuneration.**

Except as authorised by the Coroners Act 1988 or any other Act<sup>1</sup>, a coroner must not take any fee or remuneration in respect of anything done by him in the execution of his office<sup>2</sup>.

<sup>1</sup> As to salary see PARA 918 ante; as to reimbursement of expenses see PARAS 922, 1065, 1067 post; and as to fees for copy documents see PARA 1059 post.

<sup>2</sup> Coroners Act 1988 s 3(2). Section 3(2) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(iv) Salary and Fees/922. Repayment of expenses.

**922. Repayment of expenses.**

Statutory provision is made for the repayment to a coroner of the expenses which he is authorised to incur and pay in the course of his duties<sup>1</sup>.

<sup>1</sup> See PARAS 1065-1067 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(v) Resignation and Retirement from Office; Pensions and Compensation/923. Resignation.

## **(v) Resignation and Retirement from Office; Pensions and Compensation**

### **923. Resignation.**

A coroner may resign his office by giving notice in writing to the relevant council<sup>1</sup>; but the resignation does not take effect unless and until it is accepted by that council<sup>2</sup>.

<sup>1</sup> For the meaning of 'relevant council' see PARA 908 ante.

<sup>2</sup> Coroners Act 1988 s 3(3). Section 3(3) does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post. As to removal of coroners by the Lord Chancellor see PARA 926 post; and as to removal of coroners by the court see PARA 927 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(v) Resignation and Retirement from Office; Pensions and Compensation/924. Pensions and retirement.

## **924. Pensions and retirement.**

On the retirement, after not less than five years' service<sup>1</sup>, of a coroner who held office as a coroner immediately before 6 April 1978 and who did not make an election relating to pension provisions<sup>2</sup>, the relevant council<sup>3</sup> may, if either of the conditions mentioned in heads (1) and (2) below is satisfied, grant to him a pension of such amount as may be agreed between him and the council not exceeding the specified scale<sup>4</sup>. The conditions are:

- 53 (1) that the coroner has attained the age of 65 years;
- 54 (2) that the relevant council is satisfied by means of a medical certificate that the coroner is incapable of discharging his duties whether on mental or physical grounds and that such incapacity is likely to be permanent<sup>5</sup>.

Such a coroner:

- 55 (a) must, at any time after he has completed 15 years' service and has attained the age of 65 years, vacate his office if required to do so by the relevant council; but
- 56 (b) in that case and in the absence of any agreement to the contrary, is entitled to receive the maximum pension which the council is empowered to grant him, having regard to the length of his service<sup>6</sup>.

A pension payable to a coroner must be reduced by the amount of any additional component of his retirement pension<sup>7</sup> which is payable to him<sup>8</sup>. Any pension payable to a person in respect of his service as coroner is deemed to accrue from day to day and, in the absence of agreement to the contrary, is payable quarterly<sup>9</sup>.

A person who is a coroner (other than the Queen's coroner and attorney<sup>10</sup>, the coroner of the Queen's household or a coroner who held office immediately before 6 April 1978 and did not make an election<sup>11</sup>) is eligible to be a member of the Local Government Pension Scheme<sup>12</sup> and, if he is a member, he is treated:

- 57 (i) if appointed by a metropolitan county council or the Greater London Council, as being in employment with the relevant council<sup>13</sup>;
- 58 (ii) if appointed by the Common Council<sup>14</sup>, as being in employment with that Council;
- 59 (iii) if appointed by the council of a non-metropolitan county, as being in employment with that council<sup>15</sup>.

Coroners may also have private pension arrangements through or on account of their underlying profession.

1 For these purposes, 'service' means service, whether before or after the commencement of the Coroners Act 1988, as a coroner in the same administrative area; and for this purpose 'administrative area' includes the City of London: s 3(1), Sch 1 para 2(5). See PARA 907 note 4 ante. For the meaning of 'administrative area' see PARA 909 note 10 ante.

2     le a coroner who did not elect, in accordance with the Social Security (Modification of Coroners (Amendment) Act 1926) Order 1978, SI 1978/374, art 3(b) (revoked) that the provisions of the Coroners (Amendment) Act 1926 (repealed) relating to pensions should not apply to him, and is thus not a pensionable employee for the purposes of the Local Government Pension Scheme Regulations 1997, SI 1997/1612 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 448).

3     For the meaning of 'relevant council' see PARA 908 ante.

4     Coroners Act 1988 Sch 1 para 2(1); Interpretation Act 1978 s 17(2)(a). The Coroners Act 1988 Sch 1 does not apply to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

An annual pension not exceeding ten-sixtieths of the last annual salary may be granted after the completion of five years' service: Sch 1 para 3(1). Where the completed service exceeds five years, there may be granted an annual pension not exceeding the aggregate of: (1) ten-sixtieths of the last annual salary; and (2) an amount not exceeding one-fortieth of that salary for each completed years' service after five years, provided that no such pension may be of an amount exceeding two-thirds of that salary: Sch 1 para 3(2). The last annual salary of a coroner is to be taken to be the salary paid to him in his last completed year of service as coroner, after deducting so much, if any, of that salary as was paid to him with a view to his providing at his own expense for any necessary expenditure in connection with his duties as coroner: Sch 1 para 3(3). If any dispute arises as to the amount to be so deducted in computing the last annual salary of a coroner, the dispute must be referred to the Secretary of State, whose decision is final: Sch 1 para 3(4). As to the Secretary of State see PARA 908 note 2 ante.

Notwithstanding the reproduction of the Social Security (Modification of Coroners (Amendment) Act 1926) Order 1978, SI 1978/374, art 3 (revoked) as the Coroners Act 1988 Sch 1 para 2(1)(a), (b), and the Social Security (Modification of Coroners (Amendment) Act 1926) Order 1978, SI 1978/374, art 4 (revoked) as the Coroners Act 1988 Sch 1 para 2(4), those provisions may be amended or repealed, and any question as to the validity of those provisions may be determined, as though they were contained in an order made under the Social Security Act 1973 s 65 (repealed): Coroners Act 1988 Sch 1 para 2(6).

A pension payable under the Coroners Act 1988 Sch 1 may be increased in accordance with the Pensions (Increase) Act 1971 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 614 et seq): see s 5(1), Sch 2 Pt II para 61 (amended by the Coroners Act 1988 s 36(1), Sch 3 para 15). See also the Pensions (Increase) Act 1974 ss 1, 2; and the Pensions Increase (Coroners) Regulations 1974, SI 1974/1729, providing that pensions payable under the Coroners Act 1988 Sch 1 para 2 are prescribed pensions for the purposes of the Pensions (Increase) Act 1974 s 1(1).

A person appointed a coroner for a county to hold office from 1 April 1974 who was, immediately before that date, holding office as a coroner, is entitled to reckon as service for the purposes of the Coroners Act 1988 Sch 1 para 2, in its application to that county, the service which he was entitled to reckon immediately before that date: Local Authorities etc (Miscellaneous Provision) (No 2) Order 1974, SI 1974/595, art 10.

5     Coroners Act 1988 Sch 1 para 2(2).

6     Ibid Sch 1 para 2(3).

7     le within the meaning of the Social Security Pensions Act 1975 s 6(1)(b) (repealed).

8     Coroners Act 1988 Sch 1 para 2(4).

9     Ibid Sch 1 para 4.

10    As to the Queen's coroner and attorney see PARA 934 post.

11    See note 2 supra.

12    le the occupational pension scheme constituted by the Local Government Pension Scheme Regulations 1997, SI 1997/1612 (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 448.

13    le for the purposes of the Coroners Act 1988 s 1 (as substituted and amended): see PARA 908 ante. As to the abolition of the Greater London Council see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 33.

14    For the meaning of 'the Common Council' see PARA 908 note 11 ante.

15    Local Government Pension Scheme Regulations 1997, SI 1997/1612, reg 131(1), (2)(b), (3), (5); Interpretation Act 1978 s 17(2)(a). A coroner who is a member of the scheme may retire at the age of 70 years: see the Local Government Pension Scheme Regulations 1997, SI 1997/1612, reg 135 (amended by SI 1999/1212).



## **UPDATE**

### **924 Pensions and retirement**

NOTE 15--SI 1997/1612 regs 131(1), (2)(b), (3), (5), 135 revoked: SI 2008/238. See now the Local Government Pension Scheme (Administration) Regulations 2008, SI 2008/239.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(v) Resignation and Retirement from Office; Pensions and Compensation/925. Compensation for loss of office.

## **925. Compensation for loss of office.**

As the result of the reorganisation of local government a coroner may suffer loss of office or loss or diminution of remuneration. Provision has been made for the payment of compensation to:

- 60 (1) any person who, immediately before the material date, held the office of coroner and suffered loss of office or diminution of emoluments attributable to the reorganisation of local government brought about by the provisions of any order or scheme made under the Local Government Act 1933<sup>1</sup>, the provisions of any order made under the Local Government Act 1958<sup>2</sup> or the London Government Act 1963<sup>3</sup> or any instrument made under it<sup>4</sup>;
- 61 (2) any person who, immediately before the material date, held the office of coroner, or would have held that office but for any national service on which he was then engaged, and suffered loss of office or diminution of emoluments in consequence of the provisions of the Local Government Act 1972 or any instrument made under it<sup>5</sup>;
- 62 (3) any person who, immediately before the material date, held the office of coroner and suffered loss of office or loss or reduction of remuneration as a consequence of any order under the Local Government Act 1992<sup>6</sup> or any provision made by or under the Local Government (Wales) Act 1994<sup>7</sup>.

1   le under the Local Government Act 1933 Pt VI (ss 129-155) (repealed).

2   le under the Local Government Act 1958 Pt II (ss 19-45) (repealed).

3   See LONDON GOVERNMENT.

4   See the Coroners (Compensation) Regulations 1965, SI 1965/576 (amended by SI 2006/680).

5   See the Coroners (Compensation) Regulations 1975, SI 1975/353.

6   le under the Local Government Act 1992 s 17 (as amended): see ELECTIONS AND REFERENDUMS.

7   See the Local Government Reorganisation (Compensation for Loss of Remuneration) Regulations 1995, SI 1995/2837 (amended by SI 1996/660; SI 1996/1680; SI 2000/1410).

As to redundancy payments see the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, SI 2000/1410 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 455 et seq.

## **UPDATE**

### **925 Compensation for loss of office**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 6--Local Government Act 1992 s 17 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/926. Removal by the Lord Chancellor.

## **(vi) Removal from Office**

### **926. Removal by the Lord Chancellor.**

The Lord Chancellor may, if he thinks fit, remove any coroner from office for inability or misbehaviour in the discharge of his duty<sup>1</sup>. This jurisdiction existed at common law independently of any statute<sup>2</sup>; and nothing in the Coroners Act 1988 prejudices or affects the jurisdiction of the Lord Chancellor in relation to the removal of a coroner otherwise than in the manner provided by the Coroners Act 1988<sup>3</sup>.

1 Coroners Act 1988 s 3(4). As from a day to be appointed, s 3(4) is amended so as to provide that the Lord Chancellor may, with the agreement of the Lord Chief Justice, remove any coroner from office for inability or misbehaviour: see s 3(4) (prospectively substituted by the Constitutional Reform Act 2005 s 15(1), Sch 4 Pt 1 paras 193, 194(1), (3)). At the date at which this volume states the law, no such day had been appointed. As to the modification of the role of the Lord Chancellor, and the consequent transfer of various functions, see eg No 10 Downing Street press release *Modernising Government* (12 June 2003); and the Constitutional Reform Act 2005. As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq. For an example of a hearing by the Lord Chancellor of an application under the County Coroners Act 1860 s 6 (repealed: see now the Coroners Act 1988 s 3(4)) to remove a coroner see *Re Hull*(1882) 9 QBD 689.

The Coroners Act 1988 s 3(4) applies to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

2 *Ex p Parnell* (1820) 1 Jac & W 451. Formerly it was said that, if a coroner was *minus idoneus ad officium illius exequendum*, it was good cause to remove him; and *idoneus homo*, ie one apt and fit for office, was at common law such as had honesty, knowledge and ability: *Griesley's Case* (1588) 8 Co Rep 38a at 41.

3 Coroners Act 1988 s 33(2)(a). As from a day to be appointed, s 33(2)(a) is amended so as to apply only to the jurisdiction of the High Court (see PARA 927 post) and the reference to the Lord Chancellor is repealed: see s 33(2)(a) (prospectively amended by the Constitutional Reform Act 2005 ss 15(1), 146, Sch 4 Pt 1 paras 193, 195, Sch 18 Pt 2). At the date at which this volume states the law, no such day had been appointed.

## **UPDATE**

### **926 Removal by the Lord Chancellor**

NOTES 1, 3--Day now appointed: SI 2006/1014.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/927. Removal by the court.

### **927. Removal by the court.**

A coroner who is guilty of corruption, wilful neglect of his duty or misbehaviour in the discharge of his duty is guilty of an offence<sup>1</sup>. Where a coroner is convicted of such an offence, the court may, unless his office as coroner is annexed to any other office, order that he be removed from office and be disqualified for acting as coroner<sup>2</sup>.

Nothing in the Coroners Act 1988 prejudices or affects the jurisdiction of the High Court in relation to the removal of a coroner otherwise than in the manner provided by the Coroners Act 1988 or its jurisdiction in relation to or over a coroner or his duties<sup>3</sup>.

1 Coroners Act 1988 s 3(5). As from a day to be appointed, s 3(5) is amended so as to remove the reference to misbehaviour: see s 3(5) (prospectively amended by the Constitutional Reform Act 2005 s 15(1), Sch 4 Pt 1 paras 193, 194(1), (3)). At the date at which this volume states the law, no such day had been appointed.

A person guilty of such an offence is liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both: Coroners Act 1988 s 3(5). See also *R v Harrison* (1800) 1 East PC 382 (coroner fined, imprisoned and removed from office for blackmail by threatening to hold an inquest unless money was paid).

The Coroners Act 1988 s 3(5), (6) (see the text to note 2 *infra*) applies to the coroner of the Queen's household: s 29(7), Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

As to filling of vacancies see PARA 912 ante; and as to obtaining an injunction to restrain a person from improperly acting as coroner see PARA 931 post.

2 Ibid s 3(6). See also note 1 *supra*. As to the general jurisdiction of the court over coroners see PARAS 940, 947, 1073 post.

3 Ibid s 33(2)(a), (b).

### **UPDATE**

### **927 Removal by the court**

NOTE 1--Day now appointed: SI 2006/1014.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/928. When removal discretionary.

**928. When removal discretionary.**

In cases where a coroner has not been adjudged by a court of law to be removed on conviction of an offence in the conduct of his office, it is a matter within the discretion of the Lord Chancellor to determine whether the inability or misbehaviour alleged is of such a nature as to require the removal of the coroner<sup>1</sup>.

<sup>1</sup> As to the jurisdiction of the Lord Chancellor, and the need for the agreement of the Lord Chief Justice, see PARA 926 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/929. Inability.

### 929. Inability.

The usual grounds on which a coroner has been considered unable to discharge his duty are unfitness owing to age or illness<sup>1</sup> or absence whether owing to imprisonment or otherwise<sup>2</sup>. Being too much engaged in other business or holding an incompatible office are given as grounds in old authorities<sup>3</sup>.

Bankruptcy does not, however, constitute inability or misbehaviour, although it may lead to the removal of the professional qualification necessary for appointment as a coroner<sup>4</sup>.

Unprofessional conduct or bias on the part of the coroner may be considered in the particular circumstances of the case sufficient to warrant his recusing himself from the case in question<sup>5</sup>. If the court, having examined all the material, is satisfied that there is no danger of the alleged bias creating an injustice, a coroner's application to recuse himself from the case should be dismissed<sup>6</sup>.

A solicitor who is a coroner or deputy or assistant deputy coroner must not appear on behalf of a client before a coroner's court for the area or district for which he is appointed<sup>7</sup>. Nor should a solicitor who is a coroner or deputy or assistant deputy coroner (or any partner or employee of the solicitor) act professionally in any civil or criminal proceedings resulting from a death where such solicitor has held an inquest into the circumstances of such a death<sup>8</sup>. Further, since the coroner acts in a judicial capacity, a solicitor who is a coroner, deputy or assistant deputy coroner must make arrangements for another person to carry out an inquest into the death of a person where it might be thought that some bias could arise out of his personal professional connection with the deceased or with a near relative of the deceased<sup>9</sup>.

1 Fitz Nat Brev 163N. A coroner was removed in 1941 on being certified insane. Inability caused by senility is usually dealt with by calling on the coroner to vacate his office in accordance with the Coroners Act 1988 s 3(1), Sch 1 para 2: see PARA 924 ante.

2 *Ex p Parnell* (1820) 1 Jac & W 451. In that case the coroner was imprisoned for debt and continued to perform his duties through his deputy; Lord Eldon stated that 'there are many cases no doubt in which a man ought not to be the worse thought of because he may be embarrassed in his affairs; but the question is whether if a gentleman's misfortunes have placed him in circumstances in which it is utterly impossible for him to do the duty which the law imposes on him and there is a power capable of removing him it is not of necessity that he should be removed'. In *Ex p Pasley* (1842) 3 Dr & War 34, the grounds for a successful petition for the removal of a coroner were occasional mental derangement, drunkenness and the fact that at the time of the application he was in prison serving a sentence for conspiracy to obtain money on false pretences.

3 Fitz Nat Brev 163N; Com Dig, Officer, G 4; 2 Co Inst 32.

4 As to the qualifications for appointment see PARA 913 ante. A solicitor or barrister who becomes bankrupt does not automatically cease to be a solicitor or, as the case may be, a barrister. A bankrupt coroner who was removed in 1941 had also absconded and could not be found.

5 *R v Inner West London Coroner, ex p Dallaglio* [1994] 4 All ER 139, CA.

6 See *R v Gough* [1993] AC 646 at 673, [1993] 2 All ER 724 at 740, HL, per Lord Woolf. But see *Director General of Fair Trading v Proprietary Association of Great Britain* [2001] 1 WLR 700, [2000] All ER (D) 2425, CA (Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) art 6 required a different test to be applied, ie whether in all the circumstances a fair-minded and informed observer would conclude that there was a real possibility that the tribunal was biased. An inquest is not litigation, but this test has been applied in at least one coroner's case: see *R (on the application of Dawson) v East Riding and Kingston upon Hull Coroner* [2001] EWHC Admin 352, [2001] All ER (D) 246 (Apr).

7 See the Guide to the Professional Conduct of Solicitors (8th Edn, 1999) PARA 15.06(2)(e).

8 See the Guide to the Professional Conduct of Solicitors (8th Edn, 1999) PARA 15.06(2)(e).

9 See the Guide to the Professional Conduct of Solicitors (8th Edn, 1999) PARA 15.06(2)(e). On 8 February 1995, a solicitor/coroner was found guilty of unbefitting conduct: see *Re Peter Lothian Brunton* (1995) LS Gaz, 3 May, p 42 (solicitor/coroner had opened an inquest on a person who was, unknown to the coroner, employed by one of his clients; when he became aware of this, he transferred jurisdiction to another coroner; the inquest was quashed for unrelated reasons; at a further inquest the solicitor appeared to represent the interests of the client). This advice might equally be applied to the position of a medically qualified coroner in relation to his patients, his patients' relatives, his partners and employees.

## **UPDATE**

### **929 Inability**

NOTE 6--See also *R (on the application of Pounder) v HM Coroner for the North and South Districts of Durham and Darlington (No 2)* [2010] EWHC 328 (Admin), [2010] All ER (D) 240 (Feb).

NOTES 7-9--Guide to the Professional Conduct of Solicitors (8th Edn, 1999) replaced, with effect from 1 July 2007, by the Solicitors' Code of Conduct 2007.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/930. Examples of misbehaviour.

### 930. Examples of misbehaviour.

There have been many examples of what constitutes misbehaviour on the part of the coroner such as:

- 63 (1) improper refusal to hold an inquest<sup>1</sup>;
- 64 (2) wrongfully refusing to hear evidence in favour of the person accused or suspected<sup>2</sup>;
- 65 (3) drunkenness<sup>3</sup>;
- 66 (4) corruption<sup>4</sup>;
- 67 (5) tampering with the jury<sup>5</sup>;
- 68 (6) making a false return of the inquisition<sup>6</sup>;
- 69 (7) not making the required returns<sup>7</sup> to the Secretary of State<sup>8</sup>;
- 70 (8) demanding fees to which he was not entitled<sup>9</sup>; and
- 71 (9) indefinite absence<sup>10</sup>.

1 *Re Ward* (1861) 3 De GF & J 700; and see *Re Hull* (1882) 9 QBD 689.

2 *R v Scorey* (1748) 1 Leach 43.

3 *Re Ward* (1861) 3 De GF & J 700; and see *Ex p Pasley* (1842) 3 Dr & War 34 (cited in para 929 note 2 ante).

4 *R v Coates* cited in Dickinson's Justice 515; *R v Harrison* (1800) 1 East PC 382 (cited in para 927 note 1 ante).

5 *R v Stukely* (1701) 12 Mod Rep 493.

6 *R v Wakefield* (1717) 1 Stra 69; *R v Marsh* (1703) 3 Salk 172. See also *Lord Buckhurst, Wentworth and Bellasis Case* (1662) 1 Keb 278 at 280 (where the coroner was removed and fined for favouring the prisoner by retaining the inquisition and not returning it at the next gaol delivery). As to the inquisition see PARAS 1045-1048 post.

7 le the returns required by what is now the Coroners Act 1988 s 28: see PARA 1068 post.

8 A coroner was removed on this ground in 1944. As to the Secretary of State see PARA 908 note 2 ante.

9 3 Co Inst 149.

10 A coroner was removed on this ground in 1903. See also *Ex p Parnell* (1820) 1 Jac & W 451. The point is now covered by the Coroners Rules 1984, SI 1984/552, r 4, which requires the coroner at all times to hold himself ready to undertake, either by himself or his deputy or assistant deputy, any duties in connection with inquests and post-mortem examinations: see PARAS 938, 953 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/ (vi) Removal from Office/931. Injunction to restrain person acting as coroner when not entitled to do so.

**931. Injunction to restrain person acting as coroner when not entitled to do so.**

A person exercising powers as a coroner, when not entitled to that office<sup>1</sup>, may be restrained from so acting by an injunction of the High Court and the office may be declared vacant<sup>2</sup>.

1 Eg a coroner whose name has been removed from the rolls of his governing professional body. As to the qualifications required for appointment as a coroner see PARA 913 ante.

2 See the Supreme Court Act 1981 s 30(1), (2). As to the procedure on applications for an injunction see s 31(1) (as amended); CPR 54.2(d); and JUDICIAL REVIEW vol 61 (2010) PARA 662.

As to the obsolete quo warranto proceedings for the same purpose see JUDICIAL REVIEW vol 61 (2010) PARA 718. Informations in the nature of quo warranto formerly lay to determine the right of a coroner to exercise that office: see eg Com Dig, Quo Warranto A; *R v Grimshaw* (1847) 10 QB 747 (coroner appointed by borough); *Re Hemel Hempstead Coronership* (1855) 5 De GM & G 228 (coroner elected for county district).

**UPDATE**

**931 Injunction to restrain person acting as coroner when not entitled to do so**

NOTE 2--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(vii) Deputy and Assistant Deputy Coroners/932. Appointment.

## **(vii) Deputy and Assistant Deputy Coroners**

### **932. Appointment.**

Every coroner:

- 72 (1) must appoint as his deputy a person approved by the chairman<sup>1</sup> of the relevant council<sup>2</sup>; and
- 73 (2) may appoint as his assistant deputy a person so approved<sup>3</sup>.

A coroner may at any time revoke an appointment so made; but a revocation of an appointment made under head (1) above does not take effect until the appointment of a successor to the deputy has been approved by the chairman of the relevant council<sup>4</sup>.

Every appointment made under heads (1) and (2) above and every revocation of an appointment made under head (2) above must be in writing under the hand of the coroner; and a copy of every such appointment or revocation must be sent to the relevant council and be kept with the council's records<sup>5</sup>. There is no specified procedure for the appointment process to follow and, subject to prohibition against discrimination under the general law, it is open to appoint a person already known to the coroner, perhaps even if within his circle of friends or colleagues<sup>6</sup>.

The statutory provisions relating to qualifications for appointment as a coroner<sup>7</sup> apply in relation to the office of deputy or assistant deputy coroner as they apply in relation to the office of coroner; and the statutory provisions relating to disqualification for appointment as a coroner<sup>8</sup> apply in relation to, or to persons holding, the office of deputy coroner as they apply in relation to, or to persons holding, the office of coroner<sup>9</sup>.

There is no statutory provision for the payment of remuneration to a deputy coroner, save where the office of coroner is vacant<sup>10</sup>.

1 For these purposes, 'chairman', in relation to the Common Council, means the Lord Mayor: Coroners Act 1988 s 6(5). For the meaning of 'the Common Council' see PARA 908 note 11 ante. As to the Lord Mayor see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 44 et seq.

2 For the meaning of 'relevant council' see PARA 908 ante.

3 Coroners Act 1988 s 6(1). Section 6, so far as relating to the appointment and functions of deputy coroners, applies with the necessary modifications to the coroner of the Queen's household as it applies to other coroners and in particular with the following modifications, namely that: (1) the appointment of a deputy to the coroner of the Queen's household is subject to the approval of the Lord Steward of the Queen's household; and (2) copies of such appointments must be sent to and kept by him: s 29(7), Sch 2 para 2. Section 6, so far as relating to the appointment and functions of assistant deputy coroners, does not apply to the coroner of the Queen's household: Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

4 Ibid s 6(2).

5 Ibid s 6(3).

6 Cf *Coker v Lord Chancellor* [2001] EWCA 1756, [2002] IRLR 80, CA.

7 In the Coroners Act 1988 s 2(1) (as amended): see PARA 913 ante.

8     Ibid s 2(2)-(4) (as amended): see PARA 914 ante.

9     Ibid s 6(4).

10    See PARA 933 head (c) post. In practice, part of a coroner's salary is intended to reimburse the coroner for the expenses of providing for a deputy. As to the negotiation of coroners' salaries see PARA 918 note 3 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(3) DISTRICT CORONERS/(vii) Deputy and Assistant Deputy Coroners/933. Functions of deputy coroners.

### 933. Functions of deputy coroners.

A deputy coroner<sup>1</sup> may act for his coroner in the following cases but no others, namely:

- 74 (1) during the illness of the coroner;
- 75 (2) during the coroner's absence for any lawful or reasonable cause<sup>2</sup>; or
- 76 (3) at an inquest for the holding of which the coroner is disqualified<sup>3</sup>.

Where a coroner vacates office, his deputy:

- 77 (a) continues in office until a new deputy is appointed;
- 78 (b) acts as coroner while the office remains vacant; and
- 79 (c) is entitled to receive in respect of the period of the vacancy the same remuneration as the vacating coroner<sup>4</sup>.

An assistant deputy coroner may act as coroner where the deputy coroner would be entitled to act as coroner but is unable so to act owing to illness or absence for any reasonable cause; and, where the coroner vacates office, the assistant deputy coroner may act for the deputy coroner in like manner while the office of coroner is vacant<sup>5</sup>.

In relation to an inquest or act which he is authorised to hold or to do, a deputy or assistant deputy to a coroner:

- 80 (i) has the same jurisdiction and powers;
- 81 (ii) is subject to the same obligations, liabilities and disqualifications; and
- 82 (iii) is generally subject to the provisions of the Coroners Act 1988 and the law relating to coroners in the same manner,

as if he were the coroner<sup>6</sup>.

Where a deputy or assistant deputy coroner acting for, or as, the coroner signs a document, he must sign it in his own name as deputy or assistant deputy coroner, as the case may be<sup>7</sup>.

1 As to the appointment of deputy coroners see PARA 932 ante.

2 The reference to 'absence for any lawful or reasonable cause' is not to be interpreted as meaning only the coroner's physical absence, but should bear the meaning of 'lawful absence from performance of his normal duties', for example when carrying out other coronial work: *Metropolitan Police Comr v Inner South London Coroner* [2002] EWHC 2392 (Admin), [2003] 2 All ER 585, [2003] 1 WLR 371, DC. In another case the appointment by the coroner of a retired circuit judge as deputy to conduct a lengthy and sensitive inquest was held to be a wholly appropriate response to the seriousness of the matter in hand: *R (on the application of Collins) v Inner South London Coroner* [2004] EWHC 2421 (Admin).

3 Coroners Act 1988 s 7(1). Section 7, so far as relating to the appointment and functions of deputy coroners, applies with the necessary modifications to the coroner of the Queen's household as it applies to other coroners and in particular with the following modifications, namely that: (1) the appointment of a deputy to the coroner of the Queen's household is subject to the approval of the Lord Steward of the Queen's household; and (2) copies of such appointments must be sent to and kept by him: s 29(7), Sch 2 para 2. Section 7, so far as relating to the appointment and functions of assistant deputy coroners, does not apply to the coroner of the Queen's household: Sch 2 para 1. As to the coroner of the Queen's household see PARA 935 post.

- 4 Ibid s 7(2).
- 5 Ibid s 7(3).
- 6 Ibid s 7(4).
- 7 Coroners Rules 1984, SI 1984/552, r 58.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(4) QUEEN'S CORONER AND ATTORNEY; CORONER OF THE QUEEN'S HOUSEHOLD/934. Queen's coroner and attorney.

#### **(4) QUEEN'S CORONER AND ATTORNEY; CORONER OF THE QUEEN'S HOUSEHOLD**

##### **934. Queen's coroner and attorney.**

The Queen's coroner and attorney exercises functions of a different nature from those of coroners generally<sup>1</sup>, and different arrangements are made for his appointment<sup>2</sup>.

The office of Queen's coroner was originally distinct from that of master of the Crown Office, but it has now been combined with those of master of the Crown Office and Registrar of Criminal Appeals and falls within the Administrative Court<sup>3</sup>.

The person appointed to the office of Queen's coroner and attorney is, by virtue of his appointment, a master of the Queen's Bench Division<sup>4</sup>.

No person holding as a full-time appointment the office of Queen's coroner and attorney may:

- 83 (1) provide any advocacy or litigation services, in any jurisdiction;
- 84 (2) provide any conveyancing or probate services;
- 85 (3) practise as a barrister, solicitor, public notary or licensed conveyancer, or be indirectly concerned in any such practice;
- 86 (4) practise as an advocate or solicitor in Scotland, or be indirectly concerned in any such practice; or
- 87 (5) act for any remuneration to himself as an arbitrator or umpire<sup>5</sup>.

1 The office of Queen's coroner and attorney may be traced back to the ancient office of clerk of the Crown, but it is not known when it became a distinct office. Formerly, the Queen's coroner and attorney was appointed by letters patent (see *Vyntners' Case* (1558) 2 Dyer 150b), and his special duties were to write and extract out all amercements, fines, issues, and forfeitures to the Crown and to take inquisitions on the bodies of all persons dying within the Queen's Bench Prison.

In *Jervis on Coroners* (1st Edn, 1829) 4, it is stated that the master of the Crown Office or clerk of the Crown was coroner of the King's Bench and had jurisdiction over matters arising within the prison of that court. By the Queen's Prison Act 1842 s 19 (repealed), which abolished the Fleet and Marshalsea prisons, it was provided that all inquests on the bodies of any persons dying within the Queen's prison or the rules of the Queen's Bench Prison should be held by the coroner of the City of London; but, as the Queen's Bench Prison has been abolished, it cannot be said that the master of the Crown Office (now the Administrative Court) is now coroner of any 'place'. As to the Administrative Court see COURTS vol 10 (Reissue) PARA 614.

The Queen's coroner and attorney did not fall within the definition of 'franchise coroner' in the Coroners Act 1887 s 42 (see PARA 905 note 3 ante) but is nevertheless usually considered to be a franchise coroner.

The Queen's coroner and attorney is not mentioned in any of the provisions of the Coroners Act 1988.

2 At the date at which this volume states the law, the Queen's coroner and attorney is appointed by the Lord Chancellor: see the Supreme Court Act 1981 s 89(1) (amended by the Courts and Legal Services Act 1990 s 125(3), Sch 18 para 37). See also COURTS vol 10 (Reissue) PARA 654. As from a day to be appointed, the power to make appointments is to be exercisable by Her Majesty: see the Supreme Court Act 1981 s 89(1) (as so amended; prospectively amended by the Constitutional Reform Act 2005 s 14, Sch 3 para 3(1), (2)). At the date at which this volume states the law, no such day had been appointed. As to the modification of the role of the Lord Chancellor, and the consequent transfer of various functions, see eg No 10 Downing Street press release *Modernising Government* (12 June 2003); and the Constitutional Reform Act 2005. As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

To qualify for appointment a person must have a ten-year general qualification: see the Supreme Court Act 1981 s 89(1), Sch 2 Pt II (substituted by the Courts and Legal Services Act 1990 s 71(2), Sch 10 para 49). See also COURTS vol 10 (Reissue) PARA 654.

3 Courts and Legal Services Act 1990 s 78(1). See also COURTS vol 10 (Reissue) PARA 657.

4 Supreme Court Act 1981 s 89(2).

5 See the Courts and Legal Services Act 1990 s 75, Sch 11. See also COURTS vol 10 (Reissue) PARA 654.

## **UPDATE**

### **934 Queen's coroner and attorney**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTES 2, 4--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

NOTE 2--Any recommendation for appointment to the office of Queen's coroner and attorney in exercise of the function under the 1981 Act s 89(1) must be made, by virtue of the Constitutional Reform Act 2005 s 85, Sch 14 Pt 1, in accordance with ss 85-93, 96: see COURTS vol 10 (Reissue) PARA 515B.18.

Supreme Court Act 1981 Sch 2 (now Senior Courts Act 1981 Sch 2) substituted by Tribunals, Courts and Enforcement Act 2007 Sch 10 para 13(3). See also Sch 10 para 13(4), (5).



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### **935. Coroner of the Queen's household.**

The coroner of the Queen's household is appointed by the Lord Steward for the time being of the Queen's household<sup>1</sup>. The coroner of the Queen's household must make his declaration of office before the Lord Steward of the Queen's household; and he must reside in one of the Queen's palaces or in such other convenient place as may from time to time be allowed by the Lord Steward of the Queen's household<sup>2</sup>.

The coroner of the Queen's household has exclusive jurisdiction in respect of inquests into the deaths of persons whose bodies are lying within the limits of any of the Queen's palaces or within the limits of any other house where Her Majesty is then residing<sup>3</sup>. The limits of any such palace or house are deemed to extend to any courts, gardens or other places within the curtilage of the palace or house but not further; and, where a body is lying in any place beyond those limits, the coroner within whose district the body is lying, and not the coroner of the Queen's household, has jurisdiction to hold an inquest into the death<sup>4</sup>.

The jurors on an inquest held by the coroner of the Queen's household must consist of officers of that household, to be returned by such officer of the Queen's household as may be directed to summon the jurors by the warrant of the coroner<sup>5</sup>.

All inquisitions, depositions and recognisances must be delivered to the Lord Steward of the Queen's household to be filed among the records of his office<sup>6</sup>.

Subject to certain qualifications<sup>7</sup>, the coroner of the Queen's household:

- 88 (1) has the same jurisdiction and powers<sup>8</sup>;
- 89 (2) is subject to the same obligations, liabilities and disqualifications; and
- 90 (3) is generally subject to the provisions of the Coroners Act 1988 and the law relating to coroners in the same manner,

as any other coroner<sup>9</sup>.

1 Coroners Act 1988 s 29(1). The office of coroner of the Queen's household appointed under s 1 (as amended) is designated for the purposes of the Constitutional Reform Act 2005 s 118 (extension of discipline provisions): Discipline of Coroners (Designation) Order 2006, SI 2006/677, art 2

2 Coroners Act 1988 s 29(6). In practice the coroner of the Queen's household is directed to reside at his home address.

3 Ibid s 29(2). The Palace of Westminster, not being a royal palace, is subject to normal coronial jurisdiction.

4 Ibid s 29(3).

5 Ibid s 29(4). Nothing in the Coroners Rules 1984, SI 1984/552, Pt VII (rr 44-53) (as amended) (summoning of jurors and excusal from jury service: see PARA 980 et seq post) has effect in relation to any inquest held by the coroner of the Queen's household: r 53.

6 Coroners Act 1988 s 29(5).

7 Ie subject to the provisions of ibid s 29 and Sch 2.

8 Ie within the limits laid down in ibid s 29(3): see the text to note 4 supra.

9 Ibid Sch 2 para 5.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(5) PRACTICE AND PROCEDURE/936. In general.

## **(5) PRACTICE AND PROCEDURE**

### **936. In general.**

The powers and duties of coroners in England and Wales are now mainly governed by the Coroners Act 1988 and rules made under that Act<sup>1</sup>.

Rules may be made<sup>2</sup> for regulating the practice and procedure at or in connection with inquests and post-mortem examinations; and in particular, without prejudice to the generality of this power, such rules may provide:

- 91 (1) as to the procedure at inquests held without a jury;
- 92 (2) as to the issue by coroners of orders authorising burials;
- 93 (3) for empowering a coroner or his deputy or assistant deputy to alter the date fixed for the holding of any adjourned inquest within the district of the coroner;
- 94 (4) as to the procedure to be followed where a coroner decides not to resume an adjourned inquest; and
- 95 (5) as to the notices to be given, and as to the variation or discharge of any recognisances entered into by jurors or witnesses, where the date fixed for an adjourned inquest is altered or where a coroner decides not to resume an adjourned inquest<sup>3</sup>.

Such rules may<sup>4</sup> make provision for persons to be excused service as jurors at inquests in such circumstances as the rules may specify<sup>5</sup>.

The power to make rules with respect to any matter includes power:

- 96 (a) to prescribe the forms to be used in connection with that matter;
- 97 (b) to revoke or amend, or substitute new forms for, any forms which are directed or authorised by or under any enactment to be used in connection with that matter<sup>6</sup>.

The power to make rules under these provisions is exercisable by statutory instrument<sup>7</sup>.

The Secretary of State may by rules made by statutory instrument prescribe the fees payable to coroners or other persons for furnishing copies of inquisitions, depositions or other documents in their custody relating to an inquest<sup>8</sup>.

1 See PARA 937 et seq post.

2 At the date at which this volume states the law, rules may be made by the Lord Chancellor, with the concurrence of the Secretary of State: see the Coroners Act 1988 s 32(1). As from a day to be appointed, rules may be made in accordance with the Constitutional Reform Act 2005 s 12, Sch 1 Pt 1: see the Coroners Act 1988 s 32(1) (prospectively amended by the Constitutional Reform Act 2005 s 12(2), Sch 1 Pt 2 paras 19, 21(1), (2)). At the date at which this volume states the law, no such day had been appointed. As to the modification of the role of the Lord Chancellor, and the consequent transfer of various functions, see eg No 10 Downing Street press release *Modernising Government* (12 June 2003); and the Constitutional Reform Act 2005. As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq. As to the Secretary of State see PARA 908 note 2 ante.

3 Coroners Act 1988 s 32(1). See note 2 *supra*. At the date at which this volume states the law, no such rules had been made but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Coroners (Welsh Forms) Rules 1970, SI 1970/1403, and the Coroners Rules 1984, SI 1984/552 (as amended) have effect as if so made.

4 *Ibid* without prejudice to the Coroners Act 1988 s 32(1) (prospectively amended): see the text and notes 1-3 *supra*.

5 *Ibid* s 32(2). Section 32(2) does not apply in relation to any inquest held by the coroner of the Queen's household: s 29(7), Sch 2 para 3. As to the coroner of the Queen's household see PARA 935 *ante*.

6 *Ibid* s 32(3). As from a day to be appointed, s 32(3) is amended so as to remove mention of the Lord Chancellor: see s 32(3) (prospectively amended by the Constitutional Reform Act 2005 Sch 1 Pt 2 paras 19, 21(1), (3)). At the date at which this volume states the law, no such day had been appointed.

7 Coroners Act 1988 s 32(4). As from a day to be appointed, s 32(4) is repealed by the Constitutional Reform Act 2005 s 146, Sch 1 Pt 2 paras 19, 21(1), (4), Sch 18 Pt 1. At the date at which this volume states the law, no such day had been appointed.

8 Coroners Act 1988 s 24(3)(a). In exercise of this power the Secretary of State has made the Coroners' Records (Fees for Copies) Rules 2002, SI 2002/2401: see PARA 1059 note 2 *post*.

## **UPDATE**

### **936 In general**

NOTES 2, 6, 7--Day now appointed: SI 2006/1014.

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## **(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS**

### **(i) Duties in general**

#### **937. Duties of coroner.**

The duties of a coroner<sup>1</sup> are:

- 98 (1) to inquire into the death, including the cause of death and the circumstances surrounding the death, of certain persons either by holding an inquest<sup>2</sup> or by having a post-mortem examination made<sup>3</sup>; and
- 99 (2) to hold inquests into treasure<sup>4</sup>;
- 100 (3) to monitor requests for the removal of bodies out of England and Wales<sup>5</sup>; and
- 101 (4) to authorise the exhumation of bodies for the purpose of criminal proceedings<sup>6</sup>.

The duties under heads (3) and (4) above need not be connected with the holding of an inquest or the ordering of any post-mortem examination. Formerly there was an additional duty to act on occasion in the place of the sheriff but the role of the sheriff has itself now been reduced and the need for the coroner to act has in effect disappeared<sup>7</sup>.

1 As to the proposals for reform see PARA 902 ante.

2 As to inquests see PARA 974 et seq post. See also note 3 infra.

3 As to ordering a post-mortem examination only see PARA 965 post. If the coroner considers an inquest or post-mortem examination unnecessary, he notifies the registrar of births and deaths accordingly: see PARA 963 post.

4 See PARA 1077 et seq post.

5 See PARA 942 post.

6 See PARA 996 post.

7 See PARA 941 post.

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### **938. Availability of coroner.**

A coroner<sup>1</sup> must at all times hold himself ready to undertake, either by himself or by his deputy or assistant deputy, any duties in connection with inquests<sup>2</sup> and post-mortem examinations<sup>3</sup>. In certain circumstances these duties may be performed by a coroner appointed to another district<sup>4</sup>.

1 'Coroner' includes a deputy and assistant deputy coroner: Coroners Rules 1984, SI 1984/552, r 2(1). As to the appointment and functions of deputy and assistant deputy coroners see PARAS 932-933 ante.

2 'Inquest' means an inquest for the purpose of inquiring into the death of a person: *ibid* r 2(1).

3 *Ibid* r 4. 'Post-mortem examination' means a post-mortem examination which a legally qualified medical practitioner is directed or requested by a coroner to make under the Coroners Act 1988 ss 19-21 (as amended) (see PARAS 965, 1014-1016 post): Coroners Rules 1984, SI 1984/552, r 2(1) (definition amended by SI 1999/3325). As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante. See also PARA 953 post.

4 See PARA 915 ante.

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### **939. Inquests and post-mortem examinations.**

Where a coroner is informed<sup>1</sup> that the body of a person ('the deceased') is lying within his district<sup>2</sup>, and there is reasonable cause to suspect that the deceased:

- 102 (1) has died a violent or an unnatural<sup>3</sup> death;
- 103 (2) has died a sudden death of which the cause is unknown<sup>4</sup>; or
- 104 (3) has died in prison<sup>5</sup>, or in such place or in such circumstances as to require an inquest,

then, whether the cause of death arose within his district or not, the coroner must as soon as practicable hold an inquest into the death of the deceased<sup>6</sup>. A coroner's duty under these provisions is mandatory and he has no discretion as to whether or not to hold an inquest<sup>7</sup>.

Where, however, a coroner is informed that the body of a person is lying within his district and there is reasonable cause to suspect that the person has died a sudden death of which the cause is unknown, other than a violent or an unnatural death or a death in prison or in such a place or in such circumstances as to require an inquest under any other Act, the coroner may, if he is of opinion that a post-mortem examination may prove an inquest unnecessary, order a post-mortem examination to be made and, if satisfied as a result of it that an inquest is unnecessary, dispense with an inquest<sup>8</sup>.

In certain circumstances a coroner may also hold an inquest where a body has been destroyed or is irrecoverable<sup>9</sup>.

1 As to the duty to inform the coroner of deaths occurring see PARA 949 et seq post.

2 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

3 For the purposes of deciding whether a person has died an 'unnatural' death, the term 'unnatural' is to be given its ordinary meaning. Whether the death of a deceased is natural or unnatural depends on the cause of death, which is essentially a practical question of fact: *R v Poplar Coroner, ex p Thomas* [1993] QB 610, [1993] 2 All ER 381, CA (cause of death was an asthmatic attack and that was a natural cause of death; the death was not turned into an unnatural death by the lapse of some 33 minutes between the first abortive emergency call and the actual arrival of the ambulance, there being a variety of reasons why an ambulance might arrive too late to save a patient). See also *R v Poplar Coroner, ex p Thomas* supra at 630-631 and 388-389 per Simon Brown LJ (although 'unnatural' is an ordinary word of the English language and there is nothing to suggest that in the Coroners Act 1988 s 8(1) it is being used in any unusual sense, that is not to say that whether or not a particular death is properly to be regarded as unnatural is a pure question of fact; it is necessary to recognise that cases may well arise in which human fault can and properly should be found to turn what would otherwise be a natural death into an unnatural one), although it has been said that the words expressed by Simon Brown LJ were a minority view and were not intended to be authoritative (see *R v Avon Coroner, ex p Smith* (1998) 162 JP 403, where it was held that it is the duty of a coroner to consider, as a question of fact and degree, depending on the circumstances then known to him, whether the death is one properly to be treated as due to natural causes). See also *R (on the application of Touche) v Inner London North Coroner* [2001] EWCA Civ 383, [2001] QB 1206, [2001] 2 All ER 752 (question to be asked when determining whether neglect contributes to a death); *Canning v County of Northampton Coroner* [2005] All ER (D) 317 (Nov).

4 An unexpected death is usually construed as a sudden death of which the cause is unknown. The death of an elderly lady 25 days after her discharge from hospital where she had been suffering from pneumonia and sepsis in circumstances where no doctor would give a certificate of the cause of death was such a death: see *R (on the application of Kasperowicz) v Plymouth Coroner* [2005] EWCA Civ 44.

5 The word 'prison' is not defined in the Coroners Act 1988. In the Prison Act 1952, 'prison' does not include a naval, military or air force prison: see s 53(1). It is apprehended that, since there are statutory requirements to report to the coroner deaths in service detention (see PARA 952 post), the word 'prison' in the Coroners Act 1988 similarly does not include naval, military or air force prisons. Section 8(1) refers to the death of a person in prison, rather than to the death of a prisoner; quare whether s 8(1) covers not only prisoners but also prison staff. As to the duty to hold an inquest into a death occurring in prison see *R (on the application of Amin) v Secretary of State for the Home Department* [2003] UKHL 51, [2004] 1 AC 653, [2003] 4 All ER 1264.

6 Coroners Act 1988 s 8(1). As to inquests see PARA 963 et seq post.

7 *R v West Yorkshire Coroner, ex p Smith* [1983] QB 335, [1982] 3 All ER 1098, CA.

8 See the Coroners Act 1988 s 19(1), (3), (4); and PARA 965 post.

9 See *ibid* s 15; and PARA 957 post.

## UPDATE

### 939 Inquests and post-mortem examinations

NOTE 5--The Coroners Act 1988 s 8 now applies in relation to service custody premises (within the meaning of the Armed Forces Act 2006 s 300) and persons detained in such premises as it applies in relation to prisons and prisoners: Coroners Act 1988 s 8(7) (added by the Armed Forces Act 2006 Sch 16 para 110).

See also *R (on the application of Scholes) v Secretary of State for the Home Department* [2006] EWCA Civ 1343, (2007) 93 BMLR 136.



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#### **940. Delay of or refusal to hold an inquest.**

A coroner may not permit a body to putrefy by delaying to hold an inquest<sup>1</sup>. If the coroner has held, or decided to hold, an inquest into the death, he may issue an order for the burial of the body<sup>2</sup>.

If a coroner refuses or neglects to hold an inquest which ought to be held, the High Court, on application made by or under the authority of the Attorney General<sup>3</sup>, may order an inquest to be held into the death, and may order the coroner to pay such costs of and incidental to the application as to the court may appear just<sup>4</sup>.

1 *Re Hull* (1882) 9 QBD 689 (inquest delayed for five days for identification of body during which time the body which was in a decomposed state remained in a mortuary; Lord Selborne LC stated that the principle of amercement applicable to a township (see PARA 949 note 3 post) applied to the coroner responsible). It must be remembered, however, that refrigeration may now be used to arrest decomposition. As to the imposition of penalties on coroners see PARA 947 post.

2 See PARA 1054 post. As to cremation certificates see PARA 1055 post.

3 As to the Solicitor General's power to exercise functions of the Attorney General see PARA 1073 note 1 post. As to the Attorney General and the Solicitor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 529.

4 See PARA 1073 post. A refusal to hold an inquest may be a ground for removing a coroner for misbehaviour: see *Re Ward* (1861) 3 De GF & J 700; and PARA 930 ante.

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## **(ii) Acting in Place of Sheriff**

### **941. Duty to act in place of sheriff.**

High Court writs of execution were traditionally directed to a sheriff<sup>1</sup>. This duty was removed from sheriffs by the Courts Act 2003<sup>2</sup>. Before this duty was removed, in addition to his judicial duty a coroner had also ministerial authority as a sheriff<sup>3</sup> where just exception was taken to the sheriff or sheriffs where there was more than one sheriff<sup>4</sup>. In such a case judicial process was awarded to the coroner for the execution of the Queen's writs and he became the *locum tenens vicecomitis*<sup>5</sup>. When so acting, the coroner had all the powers which could be exercised by the sheriff in executing process<sup>6</sup>. When process was once awarded to the coroners, the sheriff could not afterwards act in the proceedings<sup>7</sup>, and all subsequent process in aid of the execution issued to the coroners, even though the sheriff was meanwhile removed or replaced<sup>8</sup>. While the coroner was acting in place of the sheriff, he was liable to the penalties which the sheriff might incur for negligence or misfeasance<sup>9</sup>.

1 See SHERIFFS vol 42 (Reissue) PARA 1132.

2 See the Courts Act 2003 s 99; and CIVIL PROCEDURE vol 12 (2009) PARA 1258.

3 As to the powers of the sheriff generally see SHERIFFS vol 42 (Reissue) PARA 1101 et seq.

4 Eg in the City of London, where there are two sheriffs: see SHERIFFS vol 42 (Reissue) PARA 1109.

5 4 Co Inst 271.

6 Thus, where the sheriff was plaintiff in an action of waste, a writ of estrepement was issued to the coroners of the county commanding them to suffer no waste to be done in the lands etc; and it was said by the court that the coroner himself was to provide against the waste by taking the *posse comitatus* to enforce the writ if necessary (*Earl of Cumberland v Dowager Countess of Cumberland* (1615) Hob 85; and see *Weston v Coulson* (1764) 1 Wm Bl 506). See also the Sheriffs Act 1887 s 8(2); and SHERIFFS vol 42 (Reissue) PARA 1130. As to the issue of process to the coroner in place of the sheriff see *Andrews v Sharp* (1773) 2 Wm Bl 911; *Rich v Player* (1683) 2 Show 286.

Formerly, if the sheriff was interested in the trial of an indictment, the jury process was properly directed to the coroners of the county (*R v Dolby* (1823) 2 B & C 104); but the Lord Chancellor through the Jury Central Summoning Bureau is now responsible for the summoning of jurors in the Crown Court, the High Court and county courts (see the Juries Act 1974 s 2(1); and JURIES vol 61 (2010) PARA 813). As to the modification of the role of the Lord Chancellor, and the consequent transfer of various functions, see eg No 10 Downing Street press release *Modernising Government* (12 June 2003); and the Constitutional Reform Act 2005. As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

7 *Corn v Paslow* (1602) Cro Eliz 894, Ex Ch.

8 Com Dig, Officer, G 13.

9 As to the liability of sheriffs see SHERIFFS vol 42 (Reissue) PARA 1146 et seq. The coroner could be attached for not executing a writ (see *Andrews v Sharp* (1773) 2 Wm Bl 911) or for not returning a writ (see *R v Peckham and Clarke* (1778) 2 Wm Bl 1218), or for misconduct or oppression in the office (see *Lord Coningsby v Steed* (1723) 8 Mod Rep 192), and was liable in a civil action for making a false return (see *Naylor v Sharply* (1675) 1 Mod Rep 198) or allowing an escape (see *Taylor v Clarke and Denny* (1694) 3 Lev 399; *Anon* (1703) 6 Mod Rep 37). Where the remedy against the coroners was by civil proceedings, and the process was issued to the 'coroners of the county', although one or more of the coroners of the county might be in default, all the coroners of the county were jointly liable: *Naylor v Sharply* supra (where all six coroners of the county were held jointly liable in damages for making a false return, although only one omitted to make the arrest). Where,

however, the remedy was by attachment, only that coroner who was in default was subject to the penalty: *Lord Coningsby v Steed* supra.

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### **(iii) Duties in connection with Removal of Bodies out of England**

#### **942. Removal of bodies out of England.**

Every person intending to remove the body of a deceased person out of England<sup>1</sup> must give notice of his intention in the prescribed form<sup>2</sup> to the coroner within whose jurisdiction the body is lying<sup>3</sup>, unless the body is that of a person who at the time of his death had a relevant association with a visiting force and the Secretary of State has not directed an inquest to be held or resumed<sup>4</sup>. When the deceased person died in England and a certificate for the disposal of his body has been given by a registrar of births and deaths<sup>5</sup> or a coroner's order for burial or certificate for cremation has been issued<sup>6</sup>, the certificate or order must be delivered to the coroner with the notice<sup>7</sup>. Any notice may be sent by post<sup>8</sup>. If the body is to be buried at sea, a licence will be needed<sup>9</sup>.

1 This includes Wales: see the Interpretation Act 1978 s 22, Sch 2 para 5(a); and STATUTES vol 44(1) (Reissue) PARA 1383.

2 For the prescribed form of notice of intention see the Removal of Bodies Regulations 1954, SI 1954/448, reg 4, Sch 1. A form substantially to the like effect may be used: reg 4.

3 Ibid reg 4. It should be noted that the person need not have died within the coroner's district. He may even have died abroad or at sea.

4 See PARA 962 post. As to the Secretary of State see PARA 908 note 2 ante.

5 Ie under the Births and Deaths Registration Act 1953 s 24 (as amended): see CREMATION AND BURIAL vol 10 (Reissue) PARA 929.

6 See PARAS 1054-1055 post.

7 Removal of Bodies Regulations 1954, SI 1954/448, reg 4.

8 Ibid reg 7.

9 Ie under the Food and Environment Protection Act 1985 s 5 (as amended): see SHIPPING AND NAVIGATION vol 43(2) (Reissue) PARA 1310.

#### **UPDATE**

#### **942 Removal of bodies out of England**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS/(iii) Duties in connection with Removal of Bodies out of England/943. Formalities to be observed.

### **943. Formalities to be observed.**

On receiving the notice of intention to remove the body<sup>1</sup>, the coroner must forthwith send or deliver an acknowledgment of its receipt in the prescribed form<sup>2</sup> to the person who gave the notice or to the undertaker or other person designated by that person for the purpose<sup>3</sup>. The coroner must also forthwith send or deliver to the registrar of births and deaths for the sub-district in which the death occurred or in which the dead body was found a notification that a notice of intention to remove the body has been received and, if a certificate for the disposal of the body given by that registrar<sup>4</sup> was sent to the coroner<sup>5</sup>, the certificate so sent<sup>6</sup>.

Any coroner's order for burial or certificate for cremation sent to the coroner<sup>7</sup> must be retained by the coroner unless he is notified in writing by the person wishing to remove the body that it is intended that the body is to be cremated in Scotland, Northern Ireland, the Channel Islands or the Isle of Man, in which case the coroner must indorse the certificate with words to the effect that it is thenceforth valid only for cremation in Scotland, Northern Ireland, the Channel Islands or the Isle of Man, as the case may be, and return the certificate to the person receiving the acknowledgment of the receipt of the notice of intention to remove the body<sup>8</sup>.

The body may not be removed before the expiration of a period of four clear days<sup>9</sup> after the day on which notice of intention to remove the body was received by the coroner; but, where the coroner states in his acknowledgment of receipt of the notice that, after making due inquiry, he is satisfied that no further inquiries by him are necessary concerning the death, the body may be removed at any time after the acknowledgment has been received by the person to whom it is addressed, notwithstanding that the period of four days has not expired<sup>10</sup>.

Any notices or acknowledgments may be sent by post<sup>11</sup>.

1    Ie a notice under the Removal of Bodies Regulations 1954, SI 1954/448, reg 4: see PARA 942 ante.

2    For the prescribed form of acknowledgment see *ibid* reg 5(1)(a), Sch 2. A form substantially to the like effect may be used: reg 5(1)(a).

3    *Ibid* reg 5(1)(a).

4    Ie under the Births and Deaths Registration Act 1953 s 24 (as amended): see CREMATION AND BURIAL vol 10 (Reissue) PARA 929.

5    Ie under the Removal of Bodies Regulations 1954, SI 1954/448, reg 4: see PARA 942 ante.

6    *Ibid* reg 5(1)(b).

7    See note 5 *supra*.

8    Removal of Bodies Regulations 1954, SI 1954/448, reg 5(2) (substituted by SI 1971/1354).

9    For the meaning of 'clear days' see *R v Herefordshire Justices* (1820) 3 B & Ald 581; and TIME vol 97 (2010) PARA 335.

10   Removal of Bodies Regulations 1954, SI 1954/448, reg 6.

11   *Ibid* reg 7.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS/(iv) Duties in relation to Emergencies and Disasters/944. Planning and dealing with mass fatality incidents.

#### **(iv) Duties in relation to Emergencies and Disasters**

##### **944. Planning and dealing with mass fatality incidents.**

The Civil Contingencies Act 2004 sets out the framework for dealing with emergencies<sup>1</sup> which include events or situations which threaten serious damage to human welfare, which includes loss of life<sup>2</sup>. Responsibility for producing mass fatality plans lies with the local authorities which must carry out consultation with other concerned organisations including coroners<sup>3</sup>.

In an emergency the coroner is responsible for establishing the identity of the fatalities and the causes and circumstances of the deaths. Where the fatalities span more than one coroner's district, the government's view is that a lead coroner should be appointed although the law as it stands makes no provision for such an appointment nor confers any powers on such a person. Coroners should have an emergency plan for their own mortuaries in dealing with multiple deaths and should be familiar with any major incident plans held by the police<sup>4</sup>. The coroner's duties in relation to a mass fatality incident include:

- 105 (1) responsibility for identifying a body or remains;
- 106 (2) authorising the removal of human remains from the scene;
- 107 (3) recommending which mortuary should be used and if necessary authorising a temporary mortuary;
- 108 (4) appointing pathologists and requesting special examinations;
- 109 (5) chairing an identification commission and taking steps to identify the deceased against the identification criteria;
- 110 (6) considering ante and post mortem data to establish whether unidentified victims are those believed to be at the incident site by family and friends;
- 111 (7) opening inquests and authorising release of bodies;
- 112 (8) issuing documents to the registrar so that death certificates can be issued;
- 113 (9) liaising with the relevant agencies and government<sup>5</sup>.

1 See the Civil Contingencies Act 2004, which came into force on 14 November 2005; and CONSTITUTIONAL LAW AND HUMAN RIGHTS; WAR AND ARMED CONFLICT vol 49(1) (2005 Reissue) PARA 540 et seq.

2 See *ibid* s 1.

3 See *Emergency Preparedness, Statutory Guidance on Part I of the Civil Contingencies Act 2004, its associated regulations and non-statutory arrangements* (November 2005); and *Emergency Response and Recovery, Non-statutory Guidance to complement Emergency Preparedness* (November 2005).

4 See *Emergency Response and Recovery, Non-statutory Guidance to complement Emergency Preparedness* (November 2005) PARAS 3.21-3.24.

5 See *Guidance on Dealing with Fatalities in Emergencies* (May 2004) PARA 1.10. As to the duties of the coroner's officer see *Guidance on Dealing with Fatalities in Emergencies* (May 2004) PARA 1.12. As to coroners' officers see PARA 948 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS/(v) Privileges of Coroners/945. Freedom from arrest.

## **(v) Privileges of Coroners**

### **945. Freedom from arrest.**

A coroner, when engaged in his official duty, is privileged from arrest on civil process<sup>1</sup>; and this privilege extends also to a deputy coroner<sup>2</sup>.

1 *Callaghan v Twiss* (1847) 9 ILR 422.

2 *Ex p Middlesex Deputy Coroner* (1861) 6 H & N 501. In this case, the court said that a deputy coroner was in the same position as the coroner himself in respect of his immunity from arrest; and presumably the same immunity applies to assistant deputy coroners. As to the appointment and functions of deputy coroners and assistant deputy coroners see PARAS 932-933 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS/(v) Privileges of Coroners/946. Judicial immunity.

#### **946. Judicial immunity.**

A coroner, like any other judicial officer, has immunity from legal attacks similar to other judicial officers<sup>1</sup> in respect of acts done or words spoken in the exercise of his judicial duty<sup>2</sup>. The immunity exists even though the words complained of were spoken maliciously and without reasonable or probable cause<sup>3</sup>. The immunity does not extend to acts done or words spoken while acting in excess of or without jurisdiction<sup>4</sup>.

1 He without prejudice to the power to discipline, or review the acts, decisions and behaviour of, a coroner (see PARAS 947, 1072 et seq post) or the court's power to make an order for costs against a coroner on a statutory or judicial review (see PARA 1076 post).

2 *Thomas v Churton* (1862) 2 B & S 475; *Everett v Griffiths* [1921] 1 AC 631, HL; *Law v Llewellyn* [1906] 1 KB 487, CA; *Garnett v Ferrand* (1827) 6 B & C 611; and see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARAS 197-199. As to ministerial acts see *Ferguson v Earl of Kinnoul* (1842) 9 Cl & Fin 251, HL; *Linford v Fitzroy* (1849) 13 QB 240 at 247; *Everett v Griffiths* supra; *R v Bowden* [1995] 4 All ER 505, [1995] 1 WLR 98, CA; and ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 200.

3 *Anderson v Gorrie* [1895] 1 QB 668, CA (commenting on the doubt expressed by Cockburn CJ in *Thomas v Churton* (1862) 2 B & S 475); and see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARAS 201-202.

4 See *Foxhall v Barnett* (1853) 2 E & B 928 (a coroner's jury returned a verdict of manslaughter against the plaintiff, who was committed to gaol on the coroner's warrant; the inquisition was subsequently quashed for want of jurisdiction; and the plaintiff brought an action of trespass against the coroner and recovered damages for the false imprisonment and also for the costs incurred by him in getting the inquisition quashed).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(6) DUTIES, PRIVILEGES AND LIABILITIES OF CORONERS/(vi) Imposition of Penalties on Coroners/947. General power of the court.

## **(vi) Imposition of Penalties on Coroners**

### **947. General power of the court.**

The Court of Queen's Bench always possessed and often exercised the jurisdiction of treating misbehaviour on the part of a coroner as contempt of court, and punishing it with imprisonment, fine or censure<sup>1</sup>; and such jurisdiction is now exercisable by the Queen's Bench Division of the High Court<sup>2</sup>. Nothing in the Coroners Act 1988 prejudices or affects the jurisdiction of the High Court in relation to or over a coroner or his duties<sup>3</sup>.

1 For examples see *R v Wakefield* (1717) 1 Stra 69; *R v Stukely* (1701) 12 Mod Rep 493; *R v Atkinson* (1701) 12 Mod Rep 496; *R v Stanlake* (1672) 1 Mod Rep 82 (where it was laid down that the Court of Queen's Bench, being supreme coroner, will examine the misdemeanour of any coroner). For examples of what constitutes misbehaviour see PARA 930 ante.

2 See the Supreme Court Act 1981 s 61(1), Sch 1 para 2; and COURTS vol 10 (Reissue) PARA 613.

3 Coroners Act 1988 s 33(2)(b).

## **UPDATE**

### **947 General power of the court**

NOTE 2--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/2. THE OFFICE OF CORONER/(7) CORONERS' OFFICERS/948. Coroners' officers.

## **(7) CORONERS' OFFICERS**

### **948. Coroners' officers.**

Coroners are supported in their work by coroners' officers who undertake a wide range of functions including the investigation of deaths reported to the coroner, assistance during the conduct of inquest proceedings and other administrative tasks.

There is no statutory basis for coroners' officers and arrangements differ from area to area. In some areas, coroners' officers are police officers or civilians employed by the police and in other areas they are employed by the local authority, which has led to concerns about which body should be responsible for their provision. In addition, the role of coroners' officers is unclear; there is a lack of clarity as to whether they are undertaking work on behalf of the police with a view to investigating possible offences, or whether they are working on behalf of the coroner and looking into the cause and circumstances of a death<sup>1</sup>.

In order to address these questions, the following changes have been proposed:

- 114 (1) coroners' officers to be employed directly within the coroners' service;
- 115 (2) the role of coroners' officers to be a more clearly defined and consistent investigatory role with a particular emphasis on contact with the bereaved;
- 116 (3) mandatory training for all coroners' officers<sup>2</sup>.

<sup>1</sup> See Home Office Circular 46/2002.

<sup>2</sup> See *Death Certification and Investigation in England, Wales and Northern Ireland, Report of a Fundamental Review 2003* (Cm 5831) (2003) PARAS 59-62. However, at the date at which this volume states the law, the government's position is that coroners' officers will remain police or local government employees rather than being brought into the new service: see *Coroners Service Reform Briefing Note* Department for Constitutional Affairs (February 2006) PARAS 1, 6.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(1) DUTY TO REPORT DEATH TO CORONER/949. General duty to give information.

### 3. INQUESTS

#### (1) DUTY TO REPORT DEATH TO CORONER

##### 949. General duty to give information.

It is the duty of every person to give information which may lead to the coroner having notice of circumstances requiring the holding of an inquest into a death<sup>1</sup>. Although this duty cannot be enforced in respect of individuals by any legal sanction, except where the duty is laid on particular persons by statute<sup>2</sup>, it is old law 'that, if a dead body whereon an inquest ought to be taken be interred or suffered to putrefy before the coroner hath viewed it, the township shall be amerced' (that is be subject to a fine)<sup>3</sup>.

It is an indictable offence at common law:

117 (1) to bury the body of anyone who has died a violent death before the coroner has had the opportunity of holding an inquest on it<sup>4</sup>;

118 (2) to prevent the burial of a dead body or to dispose of a dead body in order to prevent the holding of an inquest over it in a case where the coroner has reasonable ground for holding an inquest<sup>5</sup>.

1 See *R v Clerk* (1702) 1 Salk 377; 1 East PC 378.

2 For examples of a statutory duty to give notice of death see eg paras 951-952 post.

3 Bac Abr, Coroners C; Staundford, Pleas of the Crown, 51 G (both cited with approval by Lord Selborne LC in *Re Hull* (1882) 9 QBD 689 at 692). 'And, if one be killed in a vill and the coroner make no inquest, the vill shall be amerced, for probably the coroner has no notice of it': *Lord Buckhurst, Wentworth and Bellasis Case* (1662) 1 Keb 278 per Twisden J.

4 2 Hawk PC c 9 s 23; *R v Clerk* (1702) 1 Salk 377; *R v Bond* (1717) 1 Stra 22.

5 *R v Clerk* (1702) 1 Salk 377 (burying a body); *R v Soleguard* (1738) Andr 231 (refusing access to place where body lay); *R v Price* (1884) 12 QBD 247 (destruction of body); *R v Stephenson* (1884) 13 QBD 331 (destruction of body); *R v Byers* (1907) 71 JP 205; *R v Purcy* (1933) 149 LT 432, CCA (concealing a body); *R v Davis* (1942) 42 SRNSW 263; *R v Hunter* [1974] QB 95, [1973] 3 All ER 286, CA (conspiracy to prevent burial of corpse); *R v Swindell* (1981) Times, 9 October, CA (disposal of dismembered body); *R v Le Grand, Townsend and Cooper* [1983] Crim LR 626 (body concealed for two years; cause of death could not be proved); *R v Godward* [1998] 1 Cr App Rep (S) 385, CA (body concealed but actual intention of offender could not be established); *R v Whiteley* [2000] All ER (D) 1888, CA; and see CREMATION AND BURIAL vol 10 (Reissue) PARA 904.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(1) DUTY TO REPORT DEATH TO CORONER/950. Duty of relevant registrar.

### **950. Duty of relevant registrar.**

Where the relevant registrar<sup>1</sup> is informed of the death of any person, he must report the death to the coroner<sup>2</sup> on an approved form<sup>3</sup> if the death is one:

- 119 (1) in respect of which the deceased was not attended during his last illness by a registered medical practitioner<sup>4</sup>;
- 120 (2) in respect of which the registrar has been unable to obtain a duly completed certificate of cause of death<sup>5</sup> or has received such a certificate with respect to which it appears to him, from the particulars contained in the certificate or otherwise, that the deceased was not seen by the certifying medical practitioner either after death or within 14 days before death;
- 121 (3) the cause of which appears to be unknown;
- 122 (4) which the registrar has reason to believe to have been unnatural or to have been caused by violence or neglect or by abortion or to have been attended by suspicious circumstances;
- 123 (5) which appears to the registrar to have occurred during an operation or before recovery from the effect of an anaesthetic; or
- 124 (6) which appears to the registrar from the contents of any medical certificate of cause of death to have been due to industrial disease or industrial poisoning<sup>6</sup>.

Where the registrar has reason to believe, with respect to any death of which he is informed or in respect of which a certificate of cause of death has been delivered to him, that the circumstances of the death were such that it is the duty of some person or authority other than himself to report the death to the coroner, he must either satisfy himself that it has been reported or report it himself<sup>7</sup>.

The registrar must not register any death:

- 125 (a) which he has himself reported to the coroner;
- 126 (b) which to his knowledge it is the duty of any other person or authority to report to the coroner; or
- 127 (c) which to his knowledge has been reported to the coroner,

until he receives either a coroner's certificate after inquest<sup>8</sup> or a notification from the coroner that he does not intend to hold an inquest<sup>9</sup>.

Where the relevant registrar is given information of an alleged still-birth and he has reason to believe that the child was born alive, he must report the matter to the coroner on an approved form<sup>10</sup>. The registrar must not register a still-birth which to his knowledge has been reported to the coroner until he has received either a coroner's certificate after inquest or a notification from the coroner that he does not intend to hold an inquest<sup>11</sup>.

1 For these purposes, 'relevant registrar', in relation to the registration of a birth or death, means the registrar of the sub-district in which the birth or death occurred: Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 2(1). Where a still-born child is found exposed or a dead body is found, any reference to the place where the still-birth or death occurred is, if the place is unknown, to be construed as a reference to the place where the still-born child or the deceased was found: reg 2(3)(b).

2 For these purposes, 'coroner' includes a deputy coroner and an assistant deputy coroner: *ibid* reg 2(1).

3 For these purposes, 'approved form' means a form approved by the Registrar General for the purpose for which it is used: *ibid* reg 2(1). As to the Registrar General see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605 et seq.

4 For the meaning of 'registered medical practitioner' see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 4. As to the duty of medical practitioners to report deaths see PARA 951 post.

5 For these purposes, 'certificate of cause of death' means a certificate required to be signed by a medical practitioner pursuant to the Births and Deaths Registration Act 1953 s 22(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 212; REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 563): Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 2(1).

6 *Ibid* reg 41(1). See also reg 43 (as amended) (registration where inquest not held), reg 44 (noting of previous entry on coroner's certificate of cause of death), reg 45 (registration after inquest), reg 46 (noting of previous entry on registration after inquest); and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARAS 566-567.

7 *Ibid* reg 41(2). As to the subsequent duties of the registrar see regs 35-37 (regs 35, 36 as amended); and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 540.

8 For these purposes, 'inquest' includes an inquest which has been adjourned under the Coroners Act 1988 s 16(1) (as amended) (see PARA 1001 post), whether or not the inquest is subsequently resumed: Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 2(1); Interpretation Act 1978 s 17(2)(a).

9 Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 41(3).

10 *Ibid* reg 33(1) (amended by SI 1997/844).

11 Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 33(2). See also reg 35 (as amended) (registration on coroner's notification where no inquest is held), reg 36 (as amended) (registration on coroner's certificate after inquest), reg 37 (noting of previous entry after coroner's certificate after inquest); and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 540.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(1) DUTY TO REPORT DEATH TO CORONER/951. Duty of medical practitioners to report cause of death.

### **951. Duty of medical practitioners to report cause of death.**

In the case of the death of any person who has been attended during his last illness<sup>1</sup> by a registered medical practitioner<sup>2</sup>, that practitioner must sign a certificate in the prescribed form<sup>3</sup> stating to the best of his knowledge and belief the cause of death and must forthwith deliver that certificate to the registrar of births and deaths<sup>4</sup>. The fact that he is aware that the death will be reported to the coroner or that an inquest will be held is no ground for refusing to give the certificate<sup>5</sup>.

Although there is no statutory obligation on a medical practitioner to report any death to the coroner, it is normal practice for him to do so in cases of doubt or suspicion.

1 The expression 'last illness' is not defined in the Births and Deaths Registration Act 1953. It must be the illness which caused the death of the patient and the certifying medical practitioner must be so certain of the nature and effects of that illness that there is no statutory requirement for him to see the body and confirm the death before signing the certificate. If, however, the deceased was not seen by the certifying medical practitioner either after death or within 14 days before death, the registrar of deaths must report the death to the coroner: see PARA 950 ante. As to the proposals for reform of the system for reporting deaths see PARA 902 ante.

2 For the meaning of 'registered medical practitioner' see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 4.

3 For the prescribed form of certificate see the Registration of Births and Deaths Regulations 1987, SI 1987/2088, regs 2(2)(b), 40(1)(a), Sch 2 Form 14 (medical certificate of cause of death except for child dying within 28 days of birth), Sch 2 Form 15 (medical certificate of cause of death for child dying within 28 days of birth); and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 563.

4 Births and Deaths Registration Act 1953 s 22(1). See further REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 563.

5 Home Office Circular (21 October 1923).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(1) DUTY TO REPORT DEATH TO CORONER/952. Reporting of deaths in prisons and institutions.

## **952. Reporting of deaths in prisons and institutions.**

If a prisoner or an inmate of a young offender institution dies, the governor must give notice immediately to the coroner having jurisdiction<sup>1</sup>.

If:

- 128 (1) a man under sentence in naval detention quarters dies;
- 129 (2) a soldier under sentence in a military establishment dies; or
- 130 (3) a person under sentence in an air force establishment dies,

then, if the death occurs in the United Kingdom<sup>2</sup>, the commanding officer or the commandant, as the case may be, must immediately report the matter to the coroner having jurisdiction in the place where the detention quarters, military establishment or air force establishment, as the case may be, are or is situated<sup>3</sup>.

There is no requirement under the Mental Health Act 1983 to report to the coroner directly the death of a patient detained in a hospital under the provisions of that Act.

<sup>1</sup> See the Prison Rules 1999, SI 1999/728, r 22(2); the Young Offender Institution Rules 2000, SI 2000/3371, r 29(2); and PRISONS vol 36(2) (Reissue) PARAS 631, 646. As to the coroner's duty to hold an inquest where there is reasonable cause to suspect that the deceased has died in prison see PARA 939 ante; and as to his duty, either before he proceeds to hold an inquest or in the course of an inquest begun without a jury, to summon a jury where there is reason to suspect that the death occurred while the deceased was in police custody see PARA 979 post.

<sup>2</sup> 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706, preamble art I; Interpretation Act 1978 s 22(1), Sch 2 para 5(a). Neither the Channel Islands nor the Isle of Man are within the United Kingdom. See further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3.

<sup>3</sup> See the Naval Detention Quarters Rules 1973, SI 1973/270, r 91(1)(a); the Imprisonment and Detention (Army) Rules 1979, SI 1979/1456, r 82(1)(a); and the Imprisonment and Detention (Air Force) Rules 1980, SI 1980/2005, r 82(1)(a).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(i) Circumstances in which Jurisdiction arises/953. In general.

## **(2) ASSUMPTION OF JURISDICTION**

### **(i) Circumstances in which Jurisdiction arises**

#### **953. In general.**

A coroner must at all times hold himself ready to undertake, either by himself or by his deputy or assistant deputy, any duties in connection with inquests and post-mortem examinations<sup>1</sup>. A coroner is put on inquiry when he is informed that a body is lying within his district<sup>2</sup>, and that the death appears to have been a violent or unnatural one, a sudden death of which the cause is unknown or a death in prison or in such other place or in such circumstances as to require an inquest<sup>3</sup>. It is a coroner's right and duty at common law to take possession of the body of anyone killed violently or dying suddenly and to retain possession of it until the completion of the inquest, although he has discretion to order an earlier release<sup>4</sup>.

1 Coroners Rules 1984, SI 1984/552, r 4.

2 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

3 See the Coroners Act 1988 s 8(1); and PARA 939 ante.

4 *R v Bristol Coroner, ex p Kerr* [1974] QB 652, [1974] 2 All ER 719, DC (the coroner's authority over the physical control of the body arises as soon as he has decided to hold an inquest and lasts until the inquest itself has been determined). As to the removal of bodies out of England see PARAS 942-943 ante; as to burial orders see PARA 1054 post; and as to cremation certificates see PARA 1055 post.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(i) Circumstances in which Jurisdiction arises/954. Inquest out of jurisdiction.

#### **954. Inquest out of jurisdiction.**

An inquest into a death must normally be held only by the coroner within whose district the body lies<sup>1</sup>. If, however, it appears to a coroner that, in the case of a body lying within his district<sup>2</sup>, an inquest ought to be held into the death but it is expedient that the inquest should be held by some other coroner, he may request that coroner to assume jurisdiction to hold the inquest; and, if that coroner agrees, he, and not the coroner within whose district the body is lying, has jurisdiction to hold the inquest<sup>3</sup>.

If the coroner who has been requested to assume jurisdiction declines to assume it, the coroner who has made the request may apply to the Secretary of State for a direction designating the coroner who is to hold the inquest<sup>4</sup>. On the making of such an application, the Secretary of State:

- 131 (1) must determine by which coroner, whether one of the two mentioned above or another, the inquest should in all the circumstances be held; and
- 132 (2) must direct him to assume jurisdiction or, as the case may be, to exercise his jurisdiction to hold the inquest,

and, where a direction is so given directing a coroner to assume jurisdiction, he, and not the coroner within whose district the body is lying, has jurisdiction to hold the inquest and must hold it accordingly<sup>5</sup>.

Notice of the making of an application to the Secretary of State for a direction must be given to the coroner who declined to assume jurisdiction and notice of the direction given pursuant to such an application must be given:

- 133 (a) in a case where the direction is given to the coroner who made the application or the coroner who had notice of it, to the other coroner; and
- 134 (b) in a case where the direction is given to some other coroner, to the coroner who made the application and to the coroner who had notice of it<sup>6</sup>.

Where jurisdiction to hold an inquest is assumed under these provisions, it is not necessary to remove the body into the district of the coroner who is to hold the inquest<sup>7</sup>.

Any request made or agreement given, any application for a direction and any direction under any of the above provisions must be made or given in writing<sup>8</sup>.

On the assumption by a coroner of jurisdiction to hold an inquest under the above provisions, the coroner:

- 135 (i) also assumes, in relation to the body and the inquest, all the powers and duties which would belong to him if the body were lying within his district, including the power to order its exhumation<sup>9</sup>; and
- 136 (ii) may exercise those powers notwithstanding that the body remains outside his district or, having been removed into it, is removed out of it by virtue of any order of his for its examination or burial<sup>10</sup>.

On the assumption of the powers and duties referred to in heads (i) and (ii) above by the coroner who assumes jurisdiction to hold the inquest, the coroner within whose district the body is lying ceases to have any powers or duties in relation to the body or the inquest, notwithstanding that the body remains within his district or comes to be buried there<sup>11</sup>.

It is for the coroner who assumes, and not for the coroner who ceases to have, jurisdiction to hold an inquest under the above provisions to pay any fees or other expenses incurred in the course of his duties by the latter coroner before he ceased to have jurisdiction; and any such fees or other expenses must be accounted for and repaid accordingly<sup>12</sup>.

1 See the Coroners Act 1988 s 5(1); and PARA 915 ante.

2 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

3 Coroners Act 1988 s 14(1). The provisions of s 14 are useful eg where a patient is taken to a specialist hospital for treatment and subsequently dies or where the victims of an incident die in different jurisdictions. The family and witnesses being possibly miles away, the inquest can be held at a convenient place. The body may be transferred back, if that is more convenient, or the post-mortem examination may be held in the district where the patient died and the jurisdiction transferred subsequently. However, once the body has ceased to lie in the district of the coroner having jurisdiction, the power under s 14 ceases to be exercisable. See also PARA 955 post.

4 Ibid s 14(2). As to the Secretary of State see PARA 908 note 2 ante.

5 Ibid s 14(3).

6 Ibid s 14(6).

7 Ibid s 14(4).

8 Ibid s 14(5).

9 Ie under ibid s 23: see PARA 996 post.

10 Ibid s 14(7).

11 Ibid s 14(8).

12 Ibid s 14(9). As to the fees and allowances which may be paid by coroners see PARA 1062 post; and as to expenses which must be paid by coroners immediately after an inquest see PARA 1064 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(i) Circumstances in which Jurisdiction arises/955. Multiple deaths.

### **955. Multiple deaths.**

Where two or more deaths have resulted from the same incident<sup>1</sup>, the bodies of the deceased may lie within the districts of different coroners, often because they have been taken to different hospitals. Since much of the evidence will be common, it may be expedient for one coroner to hold the inquests into all the fatalities. In such a case the inquests are not joint but concurrent<sup>2</sup>. The coroners may agree among themselves a procedure whereby all the inquests may be held in one place<sup>3</sup>. In case of disagreement, the Secretary of State may not deprive a coroner of jurisdiction in order to transfer it to another coroner<sup>4</sup> but only has power to order a coroner to assume jurisdiction over a body<sup>5</sup>.

The cost of all the inquests will fall on the relevant council responsible for the district of the coroner who agrees to assume the jurisdiction<sup>6</sup>.

1 Eg an air crash or rail accident. As to the practice where a major disaster has occurred see Jervis on Coroners (12th Edn, 2002) PARA 17-01 et seq.

2 See PARA 991 post.

3 ie under the Coroners Act 1988 s 14: see PARA 954 ante.

4 Under the Coroners (Amendment) Act 1926 s 17 (repealed), where the bodies of two or more persons whose deaths appeared to have been caused by the same accident or occurrence were lying within the jurisdiction of different coroners, and it was for any reason impracticable for the coroners to agree as to the removal into the jurisdiction of one coroner of all the bodies or of such of them as it seemed expedient to remove, the Secretary of State might, if in his opinion it was in the public interest to do so, give directions for the removal of any of the bodies into such area as he might determine in which one of the coroners had jurisdiction, and might also give directions for the subsequent removal of any body to any place within the jurisdiction from which it was removed. Section 17 was repealed by the Coroners Act 1980 s 1(a), Sch 2 consequent upon the abolition of the requirement that a coroner should view the body before holding an inquest; and no provision corresponding to the Coroners (Amendment) Act 1926 s 17 (repealed) was re-enacted in the Coroners Act 1988.

5 See *ibid* s 14(2), (3); and PARA 954 ante.

6 See *ibid* s 14(9); and PARA 954 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(i) Circumstances in which Jurisdiction arises/956. Meaning of 'body'.

**956. Meaning of 'body'.**

What constitutes a body has not been judicially defined<sup>1</sup>. There must have been independent life; a non-viable foetus expelled at a stage of pregnancy at which separate existence is impossible does not fall within the coroner's jurisdiction. Similarly, inquiry into still-birth<sup>2</sup> is not a matter for the coroner unless there is doubt as to whether or not separate existence has been achieved<sup>3</sup>.

1 The finding of a part of a dismembered body may indicate that there has been a death; and the discovery of old bones may require some preliminary investigation to establish their antiquity. See also PARA 957 note 5 post. As to inquests without a body see PARA 957 post.

2 In the Births and Deaths Registration Act 1953, 'still-born child' means a child which has issued forth from its mother after the twenty-fourth week of pregnancy and which did not at any time after being completely expelled from its mother breathe or show any other signs of life: s 41 (amended by the Still-Birth (Definition) Act 1992 s 1(1)).

3 Where a registrar is given information of an alleged still-birth and he has reason to believe that the child was born alive, he must report the matter to the coroner: see PARA 950 ante. As to the form of inquisition where an inquest is held into a still-birth see PARA 1044 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(i) Circumstances in which Jurisdiction arises/957. Inquest where body destroyed or irrecoverable.

### **957. Inquest where body destroyed or irrecoverable.**

Where a coroner has reason to believe that:

- 137 (1) a death has occurred in or near<sup>1</sup> his district<sup>2</sup> in such circumstances that an inquest ought to be held; and
- 138 (2) owing to the destruction of the body by fire or otherwise, or to the fact that the body is lying in a place from which it cannot be recovered<sup>3</sup>, an inquest cannot be held except in accordance with these provisions,

he may report the facts to the Secretary of State<sup>4</sup>.

In preparing such a report the coroner should take all circumstances into account. If a body has been disrupted, valuable evidence would be the discovery of some vital organ. Discovery of a limb, for example, is no proof of death<sup>5</sup>.

Where a report is so made, the Secretary of State may, if he considers it desirable to do so, direct a coroner, whether the coroner making the report or another, to hold an inquest into the death<sup>6</sup>. The Secretary of State's discretion is very wide; and it is not for the court to substitute its discretion merely because it might have come to a different conclusion had the discretion been vested in the court<sup>7</sup>.

Where a coroner is directed to hold an inquest, the provisions of the Coroners Act 1988 and the law relating to coroners and coroners' inquests apply with such modifications as may be necessary in consequence of the inquest being one into the death of a person whose body does not lie within the coroner's district<sup>8</sup>.

1 Although the question of whether a coroner has jurisdiction to hold an inquest if there is no body is primarily a matter for his belief and assessment as to whether the death has occurred 'in or near' his district, a distance of eight or nine miles off the coast could not be described as 'in or near' his district: *R v East Sussex Coroner, ex p Healy* [1989] 1 All ER 30, [1988] 1 WLR 1194, DC (coroner held to have been right to decline to hold an inquest).

2 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante. The provisions of the Coroners Act 1988 s 15 do not conflict with s 5(3) (see PARA 915 ante). The words 'in or near' allow for any uncertainty as to the exact position of the missing body and do not extend the coroner's district into another coroner's district or administrative area.

3 Eg as in a mining disaster.

4 Coroners Act 1988 s 15(1). As to the Secretary of State see PARA 908 note 2 ante. See *R (on the application of Touche) v Inner London North Coroner* [2001] EWCA Civ 383, [2001] QB 1206, [2001] 2 All ER 752.

5 In an Australian case, an arm which was found under extraordinary circumstances and identified by certain tattoo marks as being the arm of a certain person was held not to constitute a body: *Re Oram, ex p Brady* (1935) 52 WNSW 109.

6 Coroners Act 1988 s 15(2).

7 *R v Secretary of State for the Home Department, ex p Weatherhead* (1996) 160 JP 627.

8 Coroners Act 1988 s 15(3).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(ii) Immunity from Legal Process/958. Diplomatic and state immunity.

## **(ii) Immunity from Legal Process**

### **958. Diplomatic and state immunity.**

In general, a head of state, ambassador or minister of a foreign country, and members of his family and of his official staff, are immune from suit and legal process in the United Kingdom<sup>1</sup>. This includes immunity of domicile and exemption from legal and criminal jurisdiction<sup>2</sup>. The immunity may be waived by an act of submission<sup>3</sup>. The coroner is thus precluded from investigating deaths of persons entitled to state immunity, unless this is waived. In case of doubt as to the validity of claims to immunity he should consult the Secretary of State who, after consultation with the Foreign and Commonwealth Office, will advise the coroner<sup>4</sup>.

1 As to diplomatic and state immunity see INTERNATIONAL RELATIONS LAW vol 61 (2010) PARA 243 et seq.

2 *Mighell v Sultan of Johore*[1894] 1 QB 149, CA.

3 *Duff Development Co Ltd v Government of Kelantan*[1924] AC 797, HL; *Dickinson v Del Solar*[1930] 1 KB 376. As to waiver of immunity see INTERNATIONAL RELATIONS LAW vol 61 (2010) PARAS 283, 296.

4 Home Office Circular 68/1955 para 8.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(iii) Visiting Forces/959. Inquests on members etc of visiting forces.

### **(iii) Visiting Forces**

#### **959. Inquests on members etc of visiting forces.**

If any coroner having jurisdiction to hold an inquest into a death is satisfied that the deceased at the time of his death had a relevant association<sup>1</sup> with a visiting force<sup>2</sup>, then, unless the Secretary of State otherwise directs, the coroner must not hold the inquest or, if the inquest has been begun but not completed, must adjourn the inquest and, if a jury has been summoned, must discharge the jury<sup>3</sup>.

If the death is one in respect of which an inquest would be held but for this prohibition and if the coroner considers that there are special circumstances which make it desirable that an inquest should be held, the coroner should report the case to the Secretary of State<sup>4</sup> who will consider whether to direct that an inquest should be held; in communicating with the Secretary of State the coroner should indicate the reasons for which he considers that an inquest would be of value<sup>5</sup>. The coroner should notify the registrar of deaths if an inquest is not held<sup>6</sup>.

1 For these purposes, references to a person's having at any time a relevant association with a visiting force are references to his being at that time a person of one or other of the following descriptions: (1) a member of that visiting force or a member of a civilian component of that force; (2) a person, not being a citizen of the United Kingdom and colonies or ordinarily resident in the United Kingdom, but being a dependant of a member of that visiting force or of a civilian component of that force: Visiting Forces Act 1952 s 12(2). Citizenship of the United Kingdom and colonies was abolished by the British Nationality Act 1981 and replaced by British citizenship, British overseas territories citizenship and British overseas citizenship: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8. References to a member of a civilian component of a visiting force are references to a person for the time being fulfilling the following conditions: (a) that he holds a passport issued in respect of him by a government, not being a passport issued by the passport authorities of the United Kingdom or any colony; (b) that the passport contains an uncanceled entry made by or on behalf of the appropriate authority of the sending country stating that he is a member of a civilian component of a visiting force of that country; and (c) that the passport contains a note of recognition of that entry by or on behalf of the Secretary of State which has not been cancelled and as respects which no notification in writing has been given by or on behalf of the Secretary of State to the appropriate authority of the sending country stating that the recognition is withdrawn: Visiting Forces Act 1952 s 10(1). 'Dependant', in relation to a person, means the wife or husband of that person or any other person wholly or mainly maintained by him or in his custody, charge or care: s 12(4). For the purpose of determining whether a person is, or was at any time, ordinarily resident in the United Kingdom, no account is to be taken of any period during which he has been or intends to be present in the United Kingdom while being a member of a visiting force or of a civilian component of such a force, or while being a dependant of a member of a visiting force or of such a civilian component: s 12(3). For the meaning of 'visiting force' see note 2 *infra*. For the meaning of 'United Kingdom' see PARA 952 note 2 *ante*. As to the Secretary of State see PARA 908 note 2 *ante*.

2 'Visiting force' means any body, contingent or detachment of the forces of the sending country, being a body, contingent or detachment for the time being present in, or in transit to, the United Kingdom on the invitation of Her Majesty's government in the United Kingdom: see *ibid* ss 12(1), 17(2) (s 12(1) amended by the Criminal Justice Act 1988 s 170(1), Sch 15 para 14). 'The sending country', in relation to a visiting force, means the country to whose forces the visiting force belongs: Visiting Forces Act 1952 s 12(1) (as so amended). As to the countries to which the Visiting Forces Act 1952 applies see ARMED FORCES vol 2(2) (Reissue) PARA 138.

3 *Ibid* s 7(1).

4 The Secretary of State must always be informed of the death and given sufficient information of the circumstances in order to decide if directions should be given to hold an inquest: see Home Office Circular 54/1981.

5 Home Office Circular 68/1955 para 30.



6 Home Office Circular 68/1955 para 30.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(iii) Visiting Forces/960. Inquests on persons killed by members of visiting forces.

### **960. Inquests on persons killed by members of visiting forces.**

If, on an inquest into a death, the coroner is satisfied:

- 139 (1) that a person<sup>1</sup> has been charged before a service court<sup>2</sup> of a visiting force with the homicide<sup>3</sup> of the deceased<sup>4</sup>, whether or not that charge has been dealt with; or
- 140 (2) that such a person is being detained with a view to being charged,

then, unless the Secretary of State otherwise directs, the coroner must adjourn the inquest; and, if a jury has been summoned, he must discharge the jury<sup>5</sup>. The coroner must furnish the registrar of deaths with a certificate stating the particulars necessary for the registration of the death so far as they have been ascertained at the inquest<sup>6</sup>.

<sup>1</sup> ie a person who is subject, in accordance with the Visiting Forces Act 1952 s 2 (as amended) (see ARMED FORCES vol 2(2) (Reissue) PARA 143), to the jurisdiction of the service courts of a country to which s 7 (as amended) applies: s 7(2)(a). See note 2 infra.

<sup>2</sup> For these purposes, 'service court' means a court established under service law and includes any authority of a country who under the law thereof is empowered to review the proceedings of such a court or to try or investigate charges brought against persons subject to the service law of that country: *ibid* s 12(1). The persons subject to the jurisdiction of the service courts and service authorities of a country are members of any visiting force of that country and all other persons who, being neither citizens of the United Kingdom and colonies nor ordinarily resident in the United Kingdom, are for the time being subject to the service law of that country otherwise than as members of that country's forces: s 2(2). For the meaning of 'visiting force' see PARA 959 note 2 ante; and for the meaning of 'ordinarily resident' see PARA 959 note 1 ante. Citizenship of the United Kingdom and colonies was abolished by the British Nationality Act 1981 and replaced by British citizenship, British overseas territories citizenship and British overseas citizenship: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8.

<sup>3</sup> For these purposes, 'homicide' includes murder; manslaughter; infanticide; aiding, abetting, counselling or procuring suicide; and any offence under the law of the country in question which is analogous to any of those offences: Visiting Forces Act 1952 s 7(6) (amended by the Suicide Act 1961 s 2(3), Sch 1 Pt II).

<sup>4</sup> As to the issue of certificates as to the detention or trial of a person named therein amounting to conclusive evidence of the facts stated see the Visiting Forces Act 1952 s 11; and ARMED FORCES vol 2(2) (Reissue) PARA 143.

<sup>5</sup> *Ibid* s 7(2). As to the Secretary of State see PARA 908 note 2 ante. The coroner should before adjournment take evidence of identification and of the cause of the death.

<sup>6</sup> *Ibid* s 7(2).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(iii) Visiting Forces/961. Resumption of inquest.

**961. Resumption of inquest.**

Where an inquest is adjourned<sup>1</sup>, the coroner must not resume it except on the direction of the Secretary of State<sup>2</sup>, and, if he does resume it, must proceed in all respects as if the inquest had not previously been begun, except that it is not obligatory for the coroner to view the body<sup>3</sup> or to furnish the registrar of deaths with any certificate or any further certificate, as the case may be<sup>4</sup>.

1 He under the Visiting Forces Act 1952 s 7 (as amended): see PARAS 959-960 ante.

2 As to the Secretary of State see PARA 908 note 2 ante.

3 It is no longer obligatory for a coroner holding an inquest into a death to view the body: see the Coroners Act 1988 s 11(1); and PARA 997 post.

4 Visiting Forces Act 1952 s 7(3). As to the certificate after inquest see PARA 1052 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(2) ASSUMPTION OF JURISDICTION/(iii) Visiting Forces/962. Removal of body out of England.

**962. Removal of body out of England.**

The body of a person who at the time of his death had a relevant association<sup>1</sup> with a visiting force may be removed out of England without notice being given to the coroner, except where the Secretary of State directs<sup>2</sup> that an inquest is to be held or resumed<sup>3</sup>. Where notice to the coroner is unnecessary and the body is to be removed out of England, the registrar of births and deaths must not issue his certificate for the disposal of the body<sup>4</sup>.

1 As to references to a person's having at any time a relevant association with a visiting force see PARA 959 note 1 ante; and for the meaning of 'visiting force' see PARA 959 note 2 ante.

2 Ie under the Visiting Forces Act 1952 s 7(1) (see PARA 959 ante) or s 7(3) (see PARA 961 ante). As to the Secretary of State see PARA 908 note 2 ante.

3 See *ibid* s 7(4). As to removal of a body out of England see PARA 942 ante.

4 See *ibid* s 7(5). As to the registrar's duty to give a certificate for disposal of the body see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 575.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/963. In general.

### **(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION**

#### **963. In general.**

Once a coroner is seised of a death, he must consider whether an inquest or post-mortem examination is required or whether he should notify the registrar of deaths that an inquest is unnecessary<sup>1</sup>. In coming to a decision, the coroner must act on the information of other persons and, if he has reasonable grounds for believing that that information is such as to call for an inquest or post-mortem examination, he must hold an inquest or order a post-mortem examination to be made<sup>2</sup>. He has no absolute right to hold an inquest in every case in which he chooses to do so<sup>3</sup>.

If, therefore, a medical practitioner has signed, or signifies his willingness to sign, a certificate as to the cause of death of the deceased<sup>4</sup> and there are no circumstances which appear to demand a public inquiry or a post-mortem examination<sup>5</sup>, the coroner should notify the registrar of deaths that he does not consider it necessary to hold an inquest<sup>6</sup>. The fact that there is no evidence that a sudden death was due to violence or to unnatural causes is no reason for the coroner not holding an inquest<sup>7</sup>.

1 As to the circumstances in which an inquest is required see PARA 939 ante; and as to the procedure where an inquest is considered unnecessary see PARAS 964-965 post.

2 *R v Stephenson*(1884) 13 QBD 331 at 338 per Mathew J. See also *R (on the application of Kasperowicz) v Plymouth Coroner*[2005] EWCA Civ 44.

3 See *R v Price*(1884) 12 QBD 247 at 248; *R v Stephenson*(1884) 13 QBD 331 at 337 ('It would be intolerable if a coroner had power to intrude without adequate cause upon the privacy of a family in distress and to interfere with their arrangements for a funeral'); and see *Re Hull*(1882) 9 QBD 689 at 699; *R v Clerk* (1702) 1 Salk 377; *R v Kent Justices* (1809) 11 East 229.

4 As to the right and duty of medical practitioners to sign certificates as to the cause of death see PARA 951 ante.

5 The fact that a certificate as to the cause of death has been signed by a medical practitioner does not preclude a coroner from holding an inquest. In an application to the High Court for a writ of prohibition of post-mortem examination, it was submitted that the family doctor had stated that he was willing to certify the cause of death as natural; he subsequently withdrew this statement; and the court refused to make an order of prohibition on the grounds that it was impossible to say that the coroner did not have reasonable grounds to suspect that the deceased had died a sudden death of which the cause was unknown: *R v Westminster City Coroner, ex p Rainer* (1968) 112 Sol Jo 882.

6 See PARA 964 post.

7 In *Re Hull*(1882) 9 QBD 689 at 700, Lord Selborne LC stated that, if the police or other interested persons report a sudden death to the coroner, the coroner must hold an inquest unless he has obtained such credible information as may be sufficient to satisfy a reasonable mind that the death was due to natural causes; but note that, as an alternative to holding an inquest, the coroner may now order a post-mortem examination.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/964. Conclusion of reference without post-mortem examination or inquest.

**964. Conclusion of reference without post-mortem examination or inquest.**

Although a deceased person has been attended during his last illness by a medical practitioner and a certificate of cause of death has been issued, the matter may still be reported to the coroner. The registrar of deaths may inform the coroner that the cause of death appears to be one which should be referred to the coroner<sup>1</sup>, or a doctor in doubt may seek the advice of the coroner on certification, in which case the doctor should indorse his certificate that he has made such reference. After the coroner has inquired into the circumstances of the death, if he concludes that the doctor has lawfully completed his certificate and that there is no other reason for his intervention, he must notify the registrar of births and deaths accordingly<sup>2</sup>.

<sup>1</sup> See under the Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 41: see PARA 950 ante.

<sup>2</sup> The form of notification is not prescribed by regulations, but in practice Form 100, issued by the Registrar General and coloured pink, is used. Part A of the form is used where there has been no post-mortem examination and Part B where a post-mortem examination (see PARA 965 post) has been performed. This procedure is so well-established that the terms 'pink form A case' or 'pink form B case' are in general use. As to the Registrar General see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605 et seq.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/965. Conclusion of reference after post-mortem examination without inquest.

### **965. Conclusion of reference after post-mortem examination without inquest.**

Where a coroner is informed that the body of a person is lying within his district<sup>1</sup> and there is reasonable cause to suspect that the person has died a sudden death of which the cause is unknown, the coroner may, if he is of the opinion that a post-mortem examination may prove an inquest to be unnecessary:

- 141 (1) direct any legally qualified medical practitioner<sup>2</sup> whom, if an inquest were held, he would be entitled to summon as a medical witness<sup>3</sup>; or
- 142 (2) request any other legally qualified medical practitioner,

to make a post-mortem examination of the body and to report the result of the examination to the coroner in writing<sup>4</sup>.

Where a post-mortem examination is so made and the coroner is satisfied as a result of it that an inquest is unnecessary, he must send to the registrar of deaths a certificate under his hand stating the cause of death as disclosed by the report of the person making the examination<sup>5</sup>. Where the registrar receives a certificate, he must in the prescribed form and manner make an entry of it in the register accordingly<sup>6</sup>.

Nothing in these provisions is to be construed as authorising the coroner to dispense with an inquest in any case where there is reasonable cause to suspect that the deceased has died a violent or an unnatural death or has died in prison or in such a place or in such circumstances as to require an inquest<sup>7</sup>.

1 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

2 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

3 I.e. under the Coroners Act 1988 s 21 (as amended): see PARA 1014 post.

4 Ibid s 19(1). For the purposes of such a post-mortem examination, the coroner and any person directed or requested by him to make the examination has the like powers, authorities and immunities as if the examination were a post-mortem examination directed by the coroner at an inquest into the death of the deceased: s 19(2). As to the direction of a post-mortem examination at an inquest see PARA 1014 post.

The jurisdiction which a coroner has under s 19(1) to order a post-mortem examination before deciding to hold an inquest encompasses the situations where he has reasonable cause to suspect that the relevant death is either: (1) violent or unnatural; or (2) a sudden death of which the cause is unknown, i.e. is not known to be natural; and, if the result of the post-mortem examination then satisfies the coroner that the death has occurred by natural causes, he has the power to dispense with an inquest unless the death has occurred in the circumstances specified in s 19(3) (see the text to note 5 infra): *R v Greater Manchester North District Coroner, ex p Worth* [1988] QB 513, [1987] 3 All ER 661, CA. See also *Terry v East Sussex Coroner* [2001] EWCA Civ 1094, [2002] QB 312, [2002] 2 All ER 141.

As from a day to be appointed, it is provided that no direction under the Coroners Act 1988 s 19(1) is to have effect to require a person to make a post-mortem examination if the making of the examination by him would contravene the Human Tissue Act 2004 s 16(1) (under which a person may make a post-mortem examination only under the authority of a licence under that Act): Coroners Act 1988 s 19(1A) (prospectively added by the Human Tissue Act 2004 s 56, Sch 6 para 3(1), (2)). At the date at which this volume states the law, no such day had been appointed.

5 Coroners Act 1988 s 19(3). As to the form of notification see PARA 964 note 2 ante.

6 Births and Deaths Registration Act 1953 s 23(3) (amended by the Coroners Act 1988 s 36(1), Sch 3 para 4(4)).

7 Coroners Act 1988 s 19(4). As to when an inquest is necessary see PARA 963 ante.

## **UPDATE**

### **965 Conclusion of reference after post-mortem examination without inquest**

TEXT AND NOTE 7--Coroners Act 1988 s 19(4) amended: Armed Forces Act 2006 Sch 16 para 111.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/966. Performance of post-mortem examination.

#### **966. Performance of post-mortem examination.**

Where a coroner<sup>1</sup> directs or requests that a post-mortem examination<sup>2</sup> be made, it must be made as soon after the death of the deceased<sup>3</sup> as is reasonably practicable<sup>4</sup>. The coroner cannot be compelled to carry out the examination by non-invasive means (such as magnetic resonance imaging<sup>5</sup>) rather than the conventionally invasive<sup>6</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

3 'Deceased' means the person upon whose body a post-mortem examination is made or into whose death an inquest is held or the person whose death is reported to the coroner, as the case may be: Coroners Rules 1984, SI 1984/552, r 2(1).

4 Ibid r 5. As to the choice of medical practitioner to make the post-mortem examination see PARA 968 post.

5 See eg a report by Dr Alistair Parker to the Department of Health (February 2004), recommending a comparable three-year trial of MRI versus conventional autopsies.

6 *R (on the application of Kasperowicz) v Plymouth Coroner* [2005] EWCA Civ 44.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/967. Removal of body for post-mortem examination.

### **967. Removal of body for post-mortem examination.**

Where, by the direction or at the request of a coroner, a post-mortem examination of a body is to be made, the coroner may order the removal of the body to any place which may be provided for the purpose, either within his district<sup>1</sup> or within an adjoining district of another coroner<sup>2</sup>. A coroner may not order the removal of a body upon which a post-mortem examination is to be made to any place other than a place within his district provided by a local authority<sup>3</sup>, except with the consent of the person or authority by whom the place is provided<sup>4</sup>.

The removal of a body in pursuance of an order made by the coroner to any place outside his district does not affect his powers and duties in relation to the body or the inquest into the death nor does it confer or impose any rights, powers or duties on any other coroner<sup>5</sup>.

Where a coroner orders the removal of a body to any place outside his district and does not authorise the disposal<sup>6</sup> of the body after examination, he must order the removal of the body after examination to a place within his district<sup>7</sup>.

The expenses of any removal ordered by a coroner must be defrayed as part of the expenses incurred by him in the course of his duties<sup>8</sup>.

<sup>1</sup> As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

<sup>2</sup> Coroners Act 1988 s 22(1). For the prescribed form of order to remove a body for an inquest or post-mortem examination see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 20. As to the use of forms see PARA 907 note 5 ante.

<sup>3</sup> For these purposes, 'local authority' means the council of a district, London borough or Welsh principal area or the Common Council: Coroners Act 1988 s 22(6) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(6)). For the meaning of 'Welsh principal area' see PARA 908 note 3 ante; and for the meaning of 'the Common Council' see PARA 908 note 11 ante.

As to the provision of places for the performance of post-mortem examinations see PARA 970 post.

<sup>4</sup> Coroners Act 1988 s 22(2).

<sup>5</sup> Ibid s 22(3). See also PARA 954 ante.

<sup>6</sup> For these purposes, 'disposal', in relation to a dead body, means disposal by burial, cremation or any other means: Births and Deaths Registration Act 1953 s 41; applied by the Coroners Act 1988 s 22(6).

<sup>7</sup> Ibid s 22(4). See also PARA 970 post.

<sup>8</sup> Ibid s 22(5).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/968. Choice of medical practitioner to make a post-mortem examination.

### **968. Choice of medical practitioner to make a post-mortem examination.**

In considering what legally qualified medical practitioner<sup>1</sup> is to be directed or requested by the coroner<sup>2</sup> to make a post-mortem examination<sup>3</sup>, the coroner must have regard to the following considerations:

- 143 (1) the post-mortem examination should be made, whenever practicable, by a pathologist with suitable qualifications and experience and having access to laboratory facilities;
- 144 (2) if the coroner is informed by the chief officer of police<sup>4</sup> that a person may be charged with the murder, manslaughter or infanticide of the deceased<sup>5</sup>, the coroner should consult the chief officer of police regarding the legally qualified medical practitioner who is to make the post-mortem examination;
- 145 (3) if the deceased died in a hospital<sup>6</sup>, the coroner should not direct or request a pathologist on the staff of, or associated with, that hospital to make a post-mortem examination if:
  - 1 (a) that pathologist does not desire to make the examination;
  - 2 (b) the conduct of any member of the hospital staff is likely to be called in question; or
  - 3 (c) any relative of the deceased asks the coroner that the examination be not made by such a pathologist,
- 2
- 146 unless the obtaining of another pathologist with suitable qualifications and experience would cause the examination to be unduly delayed;
- 147 (4) if the death of the deceased may have been caused by any of the specified diseases or injuries<sup>7</sup>, the coroner should not direct or request a legally qualified medical practitioner who is a member of a pneumoconiosis medical panel<sup>8</sup> to make the post-mortem examination<sup>9</sup>.

Where a person states upon oath before the coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person must not be allowed to perform or assist at the post-mortem examination or special examination<sup>10</sup> made for the purposes of the inquest into the death, but that medical practitioner or other person has the right, if he so desires, to be represented at any such post-mortem examination<sup>11</sup>.

1 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

4 'Chief officer of police' means the chief officer of police for the area in which the coroner's jurisdiction is comprised: Coroners Rules 1984, SI 1984/552, r 2(1). As to chief officers of police see POLICE vol 36(1) (2007 Reissue) PARA 178 et seq.

5 For the meaning of 'deceased' see PARA 966 note 3 ante.

6 'Hospital' means any institution for the reception and treatment of persons suffering from illness or mental disorder, any maternity home, and any institution for the reception and treatment of persons during convalescence: Coroners Rules 1984, SI 1984/552, r 2(1).

7 Ie any disease or injury in connection with which duties are from time to time imposed upon pneumoconiosis medical boards by the Social Security Administration Act 1992 ss 62, 184 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 150 et seq): Coroners Rules 1984, SI 1984/552, r 6(2); Interpretation Act 1978 s 17(2)(a). 'Pneumoconiosis medical board' has the same meaning as it has in the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980, SI 1980/377 (revoked: see now the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, SI 1985/967 (as amended)): Coroners Rules 1984, SI 1984/552, r 2(1).

8 'Pneumoconiosis medical panel' has the same meaning as it has in the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980, SI 1980/377 (revoked: see now the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, SI 1985/967 (as amended)): Coroners Rules 1984, SI 1984/552, r 2(1).

9 Ibid r 6(1), (2). As to the need to avoid delay in making a post-mortem examination see PARA 966 ante.

10 As to special examinations see PARA 1015 post.

11 Coroners Act 1988 s 20(3). See also s 21(3); and PARA 1014 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/969. Persons to be notified of post-mortem examination to be made.

**969. Persons to be notified of post-mortem examination to be made.**

Where a coroner<sup>1</sup> directs or requests a legally qualified medical practitioner<sup>2</sup> to make a post-mortem examination<sup>3</sup>, the coroner must notify:

- 148 (1) any relative of the deceased<sup>4</sup> who has notified the coroner of his desire to attend, or be represented at, the post-mortem examination<sup>5</sup>;
- 149 (2) the deceased's regular medical attendant;
- 150 (3) if the deceased died in a hospital<sup>6</sup>, the hospital;
- 151 (4) if the death of the deceased may have been caused by any specified disease or injury<sup>7</sup>, other than occupational asthma, the pneumoconiosis medical panel<sup>8</sup> for the area;
- 152 (5) if the death of the deceased may have been caused by any accident or disease of which notice is required by or under any enactment to be given to: (a) an enforcing authority<sup>9</sup>, the appropriate inspector appointed by, or representative of, that authority; or (b) an inspector appointed by an enforcing authority, that inspector;
- 153 (6) any government department which has notified the coroner of its desire to be represented at the examination;
- 154 (7) if the chief officer of police<sup>10</sup> has notified the coroner of his desire to be represented at the examination, the chief officer of police,

of the date, hour and place at which the examination will be made, unless it is impracticable to notify any such persons or bodies or to do so would cause the examination to be unduly delayed<sup>11</sup>.

Any such person or body mentioned in heads (1) to (7) above is entitled to be represented at a post-mortem examination by a legally qualified medical practitioner or, if any such person is a legally qualified medical practitioner, he is entitled to attend the examination in person; but the chief officer of police may be represented by a member of the police force of which he is chief officer<sup>12</sup>.

Nothing in these provisions is deemed to limit the discretion of the coroner to notify any person of the date, hour and place at which a post-mortem examination will be made and to permit him to attend the examination<sup>13</sup>.

A person attending a post-mortem examination<sup>14</sup> must not interfere with the performance of the examination<sup>15</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

3 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

4 For the meaning of 'deceased' see PARA 966 note 3 ante.

5 The coroner has no duty to notify the relatives if they do not first notify him of their desire to attend or be represented at the examination: *R v North London Coroner, ex p Levy* (31 July 1995, unreported), CA.

6 For the meaning of 'hospital' see PARA 968 note 6 ante.

7     le any of the diseases or injuries within the Coroners Rules 1984, SI 1984/552, r 6(2): see PARA 968 ante.

8     For the meaning of 'pneumoconiosis medical panel' see PARA 968 note 8 ante.

9     'Enforcing authority' has the same meaning as it has in the Health and Safety at Work etc Act 1974 s 18(7) (see HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 375): Coroners Rules 1984, SI 1984/552, r 2(1).

10    For the meaning of 'chief officer of police' see PARA 968 note 4 ante.

11    Coroners Rules 1984, SI 1984/552, rr 7(1), (2).

12    Ibid r 7(3).

13    Ibid r 7(4).

14    le by virtue of ibid r 7(3) or (4): see the text to notes 12-13 supra.

15    Ibid r 8.

## **UPDATE**

### **969 Persons to be notified of post-mortem examination to be made**

NOTE 13--The coroner has a general discretion, under SI 1984/552 r 7(4), to allow access to persons other than those on the list of persons allowed to attend post mortems; and there will be cases where it will be just to refuse attendance: *R (on the application of the Independent Police Complaints Commission) v HM Coroner for Inner North London* [2009] All ER (D) 349 (Jul), DC.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/970. Place for performance of post-mortem examinations.

### **970. Place for performance of post-mortem examinations.**

No post-mortem examination<sup>1</sup> may be made in a dwelling house or in licensed premises<sup>2</sup>. Every post-mortem examination must be made in premises which are adequately equipped for the purpose of the examination<sup>3</sup>. Where a person dies in a hospital<sup>4</sup> possessing premises so equipped, any post-mortem examination of the body of that person must, with the consent of the hospital authority, be made in those premises unless the coroner otherwise decides<sup>5</sup>. No premises are deemed to be adequately equipped for the purpose of post-mortem examinations unless they are supplied with running water, proper heating and lighting facilities, and containers for the storing and preservation of material<sup>6</sup>.

A local authority or a parish council may, and if required by the Secretary of State<sup>7</sup> must, provide a post-mortem room for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a coroner or other duly authorised authority, and may make byelaws with respect to the management, and charges for the use, of any such place provided by it<sup>8</sup>. The coroner has no control over such provision or the administration of such a room.

1 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

2 Coroners Rules 1984, SI 1984/552, r 11(1).

3 Ibid r 11(2).

4 For the meaning of 'hospital' see PARA 968 note 6 ante.

5 Coroners Rules 1984, SI 1984/552, r 11(3).

6 Ibid r 11(4). As to preservation of material see PARA 971 post.

7 As to the Secretary of State see PARA 908 note 2 ante.

8 See the Public Health Act 1936 s 198(1)(b); and CREMATION AND BURIAL vol 10 (Reissue) PARA 923.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/971. Preservation of material.

### **971. Preservation of material.**

A pathologist<sup>1</sup> must make provision, so far as possible, for the preservation of material which in his opinion bears upon the cause of death or the identification of the deceased<sup>2</sup>. Similarly, a person making a special examination<sup>3</sup> (an 'examiner') must make provision, so far as possible, for the preservation of material submitted to him for examination<sup>4</sup>. Where a pathologist or an examiner preserves material he must notify the coroner<sup>5</sup> of that fact forthwith in writing<sup>6</sup>. A notification<sup>7</sup> must identify the material being preserved and explain why the pathologist is of the opinion that it should be preserved<sup>8</sup>. A notification may specify the period for which the pathologist or examiner believes the material should be preserved and specify different periods for different material<sup>9</sup>.

Where a coroner receives a notification<sup>10</sup> he must notify the pathologist or examiner of the period for which he requires the material to be preserved, being such period as in the coroner's opinion the material needs to be preserved for the purpose of fulfilling his functions under the Coroners Act 1988 in relation to the deceased, and he may specify different periods for different material<sup>11</sup>. On making the notification to the pathologist<sup>12</sup> or examiner<sup>13</sup> or, if not then known, as soon as their whereabouts are known, the coroner must also notify the parent, child<sup>14</sup>, spouse, civil partner, partner or any personal representative of the deceased<sup>15</sup> and any other relative of the deceased who has notified the coroner of his desire to attend, or be represented at the post-mortem examination, that the material is being preserved, the period or periods for which it is required to be preserved<sup>16</sup>, and the options for dealing with the material on expiry of the notified period<sup>17</sup>. The options are: (1) disposal of the material by burial, cremation or other lawful disposal by the pathologist or examiner; (2) return of the material to the person<sup>18</sup> who requests that the material be returned to him; or (3) retention of the material with the consent of a notified person<sup>19</sup> for medical research or other purposes<sup>20</sup>.

Where a pathologist or examiner has retained material and the period notified<sup>21</sup> in relation to that material has expired, that person must record:

- 155 (a) that the material has been disposed of by him or on his behalf;
- 156 (b) that the material has been delivered into the possession of a specified person; or
- 157 (c) that he has retained the material on behalf of a specified person,

and must retain such a record<sup>22</sup>.

1 'Pathologist' means the person making a post-mortem examination: Coroners Rules 1984, SI 1984/552, r 9A(8) (rr 9, 12 substituted, and rr 9A, 12A added, by SI 2005/420).

2 Coroners Rules 1984, SI 1984/552, r 9(1) (as substituted: see note 1 supra). For the meaning of 'deceased' see PARA 966 note 3 ante. As to the retention of organs prior to the coming into force of the Coroners Rules 1984, SI 1984/552, rr 9A, 12A (as added) see *Re Organ Retention Group Litigation* [2004] EWHC 644 (QB), [2005] QB 506.

3 I.e. a person making a special examination under the Coroners Rules 1984, SI 1984/552, r 12 (as substituted): see PARA 1015 post.

4 Ibid r 12(1) (as substituted: see note 1 supra).

5 For the meaning of 'coroner' see PARA 938 note 1 ante.



6 Coroners Rules 1984, SI 1984/552, rr 9(2), 12(2) (as substituted: see note 1 supra). 'Writing' includes electronic communication: see rr 9(2), 12(2) (as so substituted).

7 le a notification under ibid r 9(2) (as substituted): see the text to notes 5-6 supra.

8 Ibid r 9(3) (as substituted: see note 1 supra).

9 Ibid rr 9(4), 12(3) (as substituted: see note 1 supra).

10 le under ibid rr 9(2), 12(2) (as substituted): see the text to notes 5-6 supra.

11 Ibid rr 9(5), 12(4) (as substituted: see note 1 supra). The pathologist or examiner must, so far as possible, preserve the material until the expiry of the period notified to him in relation to it under r 9(5) (as substituted) or r 12(4) (as substituted): rr 9(10), 12(9) (as substituted: see note 1 supra). Where, at any time during a period notified to him under r 9(5) (as substituted) or r 12(4) (as substituted), the pathologist or examiner believes that any of the material retained under that rule should be retained for a different period, he must notify the coroner of that fact and, in relation to a pathologist the notification must comply with r 9(3) (as substituted) (see the text to notes 7-8 supra): rr 9A(5), 12A(5) (as added: see note 1 supra). Rule 9(5) (as substituted) applies to a notification under r 9A(5) (as added) as it applies to a notification under r 9(2) (as substituted) (see the text to notes 5-6 supra): r 9A(6) (as added: see note 1 supra). Rule 12(4) (as substituted) applies to a notification under r 12A(5) (as added) as it applies to a notification under r 12(2) (as substituted) (see the text to notes 5-6 supra): r 12A(6) (as added: see note 1 supra).

If a period notified under rr 9(5), 12(4) (as substituted) does not expire before the date on which the coroner's functions cease under the Coroners Act 1988, it expires on that date; and the coroner must notify the persons referred to in the Coroners Rules 1984, SI 1984/552, rr 9(5), (6), 12(4), (5) (as substituted) accordingly: rr 9(9), 12(8) (as substituted: see note 1 supra).

Where the coroner: (1) is informed under the Coroners Act 1988 s 16 (as amended) (see PARA 1001 post) that a person has been charged with an offence in relation to, or connected with, the death of the deceased; or (2) receives a request under the Coroners Rules 1984, SI 1984/552, r 26 (see PARA 1002 post) on the ground that a person may be charged with an offence in relation to the death of the deceased, he must notify the chief officer of police or, in the case of a notification under the Coroners Act 1988 s 16(1)(b) (as amended) (see PARA 1001 post), the Director of Public Prosecutions, of any period for which he requires material to be preserved under the Coroners Rules 1984, SI 1984/552, rr 9(5), 12(4) (as substituted): rr 9A(1), 12A(1) (as added: see note 1 supra). For the meaning of 'chief officer of police' see PARA 968 note 4 ante. As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

Where the coroner is informed under the Coroners Act 1988 s 17A (as added) (see PARA 1000 post) that a public inquiry is being or is to be held, the coroner must consult the person chairing the inquiry before deciding any period for which he requires material to be preserved under the Coroners Rules 1984, SI 1984/552, rr 9(5), 12(4) (as substituted): rr 9A(2), 12A(2) (as added: see note 1 supra).

A coroner may from time to time vary a period notified under rr 9(5), 12(4) (as substituted) and must notify promptly both the pathologist or examiner and any person notified under rr 9(6), 12(5) (as substituted) (see the text to notes 12-17 infra) of the variation: rr 9A(3), 12A(3) (as added: see note 1 supra). Where a period is varied under r 9A(3) (as added), the provisions of r 9(9), (10) (as substituted) and r 9A(1), (2), (5), (7) (as added) apply to the period so varied, as they apply to the period notified under r 9(5) (as substituted): r 9A(4) (as added: see note 1 supra). Where a period is varied under r 12A (as added), the provisions of r 12(8), (9) (as substituted) and r 12A(1), (2), (5), (7) (as added) apply to the period so varied as they apply to the period notified under r 12(4) (as substituted): r 12A(4) (as added: see note 1 supra).

12 le under ibid r 9(5) (as substituted): see the text to notes 10-11 supra.

13 le under ibid r 12(4) (as substituted): see the text to notes 10-11 supra.

14 In the case of a child who has identified himself as such to the coroner, the coroner may, if he considers it more appropriate, notify a person who has parental responsibility for the child instead of notifying the child himself: ibid rr 9(7), 12(6) (as substituted: see note 1 supra). 'Child' means a person who has not attained the age of 18 years; and 'parental responsibility' has the same meaning as in the Children Act 1989 (see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) PARA 134): Coroners Rules 1984, SI 1984/552, rr 9(11), 12(10) (as so substituted).

15 le one of the persons referred to in ibid r 20(2)(a) (as amended): see PARA 1023 post.

16 le under ibid r 9(5) (as substituted) or r 12(4) (as substituted): see the text to notes 10-11 supra.

17 Ibid rr 9(6), 12(5) (as substituted: see note 1 supra).

18 le a person referred to in ibid rr 9(6), 12(5) (as substituted): see the text to notes 12-17 supra.

- 19 See note 18 *supra*.
- 20 Coroners Rules 1984, SI 1984/552, rr 9(8), 12(7) (as substituted: see note 1 *supra*).
- 21 *Ie* under *ibid* rr 9(5), 12(4) (as substituted): see the text and notes 10-11 *supra*.
- 22 *Ibid* rr 9A(7), 12A(7) (as added: see note 1 *supra*).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/972. Reports for the coroner.

## **972. Reports for the coroner.**

A person making a post-mortem examination<sup>1</sup> must report to the coroner<sup>2</sup> in the prescribed form<sup>3</sup> or in a form to like effect<sup>4</sup>. Unless authorised by the coroner, the person making a post-mortem examination must not supply a copy of his report to any person other than the coroner<sup>5</sup>.

1 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the prescribed form of report see the Coroners Rules 1984, SI 1984/552, rr 10, 60, Sch 2 (amended by SI 2005/420). The report must give details of (inter alia): the name of the deceased; the person identifying the body; the place, date and time of, and the observers present at, the post-mortem examination; the result of the internal and external examinations; and whether any organs were removed and retained. Descriptions of injuries or of complex pathology may be attached on a separate sheet, provided that it is properly identified and signed.

4 Coroners Rules 1984, SI 1984/552, r 10(1).

5 Ibid r 10(2). Similar provisions apply to persons making special examinations for the coroner: see r 13; and PARA 1015 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(3) NECESSITY FOR INQUEST OR POST-MORTEM EXAMINATION/973. Removal of parts of bodies for medical purposes.

### **973. Removal of parts of bodies for medical purposes.**

The person lawfully in possession of the body of a deceased person may authorise the removal of any part from the body for use for therapeutic purposes or for purposes of medical education or research if the deceased had so requested either in writing at any time or orally in the presence of two or more witnesses during his last illness or if, having made such reasonable inquiry as may be practicable, that person has no reason to believe that the deceased had expressed an objection to his body being so dealt with after his death and had not withdrawn it, or that the surviving spouse or any surviving relative of the deceased objects to the body being so dealt with<sup>1</sup>.

Where a person has reason to believe that an inquest may be required to be held on any body or that a post-mortem examination of any body may be required by the coroner, he must not, except with the consent of the coroner, give an authority under these provisions in respect of the body, or act on such an authority given by any other person<sup>2</sup>.

1 See the Human Tissue Act 1961 s 1(1), (2); and MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 225. As from a day to be appointed, the Human Tissue Act 1961 is repealed by the Human Tissue Act 2004 ss 57, 60, Sch 7 Pt 1. At the date at which this volume states the law, no such day had been appointed. As to the new regime under the Human Tissue Act 2004 see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 233 et seq.

As from a day to be appointed, anything done for purposes of functions of a coroner or under the authority of a coroner will be exempt from the requirements of the Human Tissue Act 2004 Pt 1 (ss 1-12) (not yet in force): see s 11(1) (not yet in force). Where a person knows, or has reason to believe, that: (1) the body of a deceased person; or (2) relevant material which has come from the body of a deceased person, is, or may be, required for purposes of functions of a coroner, he must not act on authority under s 1 (not yet in force) in relation to the body, or material, except with the consent of the coroner: s 11(2) (not yet in force). At the date at which this volume states the law, no such day had been appointed. See further MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 212.

2 Human Tissue Act 1961 s 1(5) (prospectively repealed: see note 1 supra). Thus, in cases for reference to the coroner, the coroner's consent to removal of tissue is required in addition to that of the person lawfully in possession of the body. See also note 1 supra.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(4) PROCEDURE BEFORE INQUESTS/974. Place where inquest to be held.

#### **(4) PROCEDURE BEFORE INQUESTS**

##### **974. Place where inquest to be held.**

The inquest must be held at some place within the district of the coroner who is to hold the inquest<sup>1</sup>. The council, whether or not a relevant council<sup>2</sup>, of any of the following, that is to say:

- 158 (1) a metropolitan district;
- 159 (2) a special non-metropolitan district<sup>3</sup>;
- 160 (3) a London borough;
- 161 (4) a Welsh principal area<sup>4</sup>; or
- 162 (5) in the case of a coroner's district constituted by an order under the Local Government Act 1992 which lies partly in each of two or more non-metropolitan counties<sup>5</sup>, a non-metropolitan county the whole or part of which is included in that coroner's district,

may provide and maintain proper accommodation for the holding of inquests in its area<sup>6</sup>. A relevant council may not, however, interfere with the coroner's discretion to decide the appropriate venue within his district for the holding of an inquest<sup>7</sup>.

1 See the Coroners Act 1988 s 5(2); and PARA 915 ante.

2 For the meaning of 'relevant council' see PARA 908 ante.

3 For the meaning of 'special non-metropolitan district' see PARA 908 note 1 ante.

4 For the meaning of 'Welsh principal area' see PARA 908 note 3 ante.

5 I.e. a coroner's district such as is mentioned in the Coroners Act 1988 s 1(1)(b) (as substituted): see PARA 907 head (2) ante.

6 Ibid s 31 (amended by the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (8); and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(10)).

7 *R v Inner North London Coroner, ex p Chambers, R v Inner North London Coroner, ex p Greater London Council* (1983) 127 Sol Jo 445.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(4) PROCEDURE BEFORE INQUESTS/975. Days on which inquest not to be held.

**975. Days on which inquest not to be held.**

An inquest<sup>1</sup> must not be held on Christmas Day, Good Friday or a bank holiday, unless the coroner<sup>2</sup> thinks it requisite on grounds of urgency that an inquest should be held on such a day, and no inquest may be held on a Sunday<sup>3</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 Coroners Rules 1984, SI 1984/552, r 18. There is nothing to prevent ministerial duties from being performed on a Sunday: see *Mackalley's Case* (1611) 9 Co Rep 65a.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(4) PROCEDURE BEFORE INQUESTS/976. Notice of inquest.

**976. Notice of inquest.**

The coroner<sup>1</sup> must notify the date, hour and place of an inquest<sup>2</sup> to:

- 163 (1) the spouse or a near relative or personal representative of the deceased<sup>3</sup> whose name and address are known to the coroner; and
- 164 (2) any other person who, in the opinion of the coroner, is entitled to examine witnesses<sup>4</sup>, has asked the coroner to notify him of such particulars of the inquest and has supplied the coroner with a telephone number or address for the purpose of so notifying him<sup>5</sup>.

Any person whose conduct is likely in the opinion of the coroner to be called in question at an inquest must, if not duly summoned to give evidence at the inquest, be given reasonable notice of the date, hour and place at which the inquest will be held<sup>6</sup>.

In the case of certain notifiable industrial accidents and diseases, a coroner should give notice of the date and place of the inquest to the enforcing authority<sup>7</sup>.

The coroner must also inform the witnesses, by summons or otherwise, of the date and place of the inquest<sup>8</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the meaning of 'inquest' see PARA 938 note 2 ante.

3 For the meaning of 'deceased' see PARA 966 note 3 ante.

4 I.e. any person within the Coroners Rules 1984, SI 1984/552, r 20(2) (as amended): see PARA 1023 heads (1)-(8) post.

5 Ibid r 19. For the prescribed form of notice of inquest arrangements see rr 19, 60, Sch 4 Form 13. As to the use of forms see PARA 907 note 5 ante.

6 Ibid r 24. If the attendance of a person in custody is desired, the governor of the prison should be informed and he will make the necessary arrangements for that person's attendance: Home Office Circular 68/1955 paras 13, 14.

7 See Home Office Circular 3/1981.

8 See PARA 1013 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(4) PROCEDURE BEFORE INQUESTS/977. Inquests into road deaths in London.

### **977. Inquests into road deaths in London.**

Where an accident occurs within Greater London<sup>1</sup> or the City of London<sup>2</sup> resulting in the death of a person, and it is alleged that the accident was due to:

- 165 (1) the nature or character of a road<sup>3</sup> or road surface; or
- 166 (2) a defect in the design or construction of a vehicle or in the materials used in the construction of a road or vehicle,

the coroner holding the inquest into the death must send to the Secretary of State, or to such officer of his as the Secretary of State may direct, notice in writing of the time and place of holding the inquest, and of any adjourned inquest<sup>4</sup>.

1 As to the meaning of 'Greater London' see PARA 909 note 3 ante.

2 See PARA 907 note 4 ante.

3 For these purposes, 'road' has the same meaning as in the Road Traffic Act 1988 s 182 (see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 244): Coroners Act 1988 s 18(3) (amended by the Road Traffic (Consequential Provisions) Act 1988 s 4, Sch 3 para 37(3)).

4 Coroners Act 1988 s 18(1).

### **UPDATE**

### **977 Inquests into road deaths in London**

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733. Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/978. Inquests without a jury.

## **(5) PROCEEDINGS AT INQUESTS**

### **(i) The Jury**

#### **978. Inquests without a jury.**

A jury is not required at an inquest on a dead body except in the cases specified by statute<sup>1</sup>.

In the case of an inquest held without a jury<sup>2</sup>, the coroner must, after hearing the evidence, give his verdict and certify it by an inquisition, and inquire of and find the particulars for the time being required<sup>3</sup> to be registered concerning the death<sup>4</sup>.

In the case of an inquest or any part of an inquest held without a jury, anything done by or before the coroner alone is as validly done as if it had been done by or before the coroner and a jury<sup>5</sup>.

If it appears to a coroner, before he proceeds to hold an inquest, on resuming an inquest begun with a jury after the inquest has been adjourned and the jury discharged or in the course of an inquest begun without a jury, that there is any reason for summoning a jury, he may proceed<sup>6</sup> to summon a jury<sup>7</sup>.

1 See the Coroners Act 1988 s 8(1). As to the cases where a jury is required see PARA 979 post.

2 References to an inquest held without a jury do not include an inquest part of which is held with a jury: *ibid* s 35(2).

3 *Ie* by the Births and Deaths Registration Act 1953: see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq.

4 Coroners Act 1988 s 11(4).

5 *Ibid* s 8(5). In cases of murder, manslaughter and infanticide it is usual for the coroner sitting alone to open the inquest and to take evidence of identity, of the cause of death and of the registration particulars. The inquest is then adjourned until the conclusion of the criminal proceedings. Unless the inquest needs to be resumed under s 16 (as amended) (see PARA 1001 post), there is no need to summon a jury.

6 *Ie* in the manner required by *ibid* s 8(2): see PARA 980 et seq post.

7 *Ibid* s 8(4) (amended by the Access to Justice Act 1999 s 71(2)).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/979. Where jury is necessary.

**979. Where jury is necessary.**

If it appears to a coroner, either before he proceeds to hold an inquest or in the course of an inquest begun without a jury<sup>1</sup>, that there is reason to suspect:

- 167 (1) that the death occurred in prison<sup>2</sup> or in such a place or in such circumstances as to require an inquest<sup>3</sup>;
- 168 (2) that the death occurred while the deceased was in police custody<sup>4</sup>, or resulted from an injury caused by a police officer in the purported execution of his duty<sup>5</sup>;
- 169 (3) that the death was caused by an accident, poisoning or disease notice of which is required to be given under any Act<sup>6</sup> to a government department, to any inspector or other officer of a government department or to an inspector appointed<sup>7</sup> under the Health and Safety at Work etc Act 1974<sup>8</sup>; or
- 170 (4) that the death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public<sup>9</sup>,

he must proceed to summon<sup>10</sup> a jury<sup>11</sup>.

1 As to references to an inquest held without a jury see PARA 978 note 2 ante.

2 As to the meaning of 'prison' see PARA 939 note 5 ante.

3 Coroners Act 1988 s 8(3)(a).

4 A coroner is 'bound to recognise the acute public concern rightly aroused where deaths occur in custody. He must ensure that the relevant facts are exposed to public scrutiny, particularly if there is evidence of foul play, abuse or inhumanity': *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1 at 26, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972 at 991, CA, per Sir Thomas Bingham MR.

A person transferred from a police station to a hospital remains in police custody, even though he is not at the time being held by a specific officer: *R v Inner London North District Coroner, ex p Linnane* [1989] 2 All ER 254, [1989] 1 WLR 395, DC.

5 Coroners Act 1988 s 8(3)(b).

6 Notice of industrial accidents, other than those relating to agriculture, must now be given to the Health and Safety Executive: see the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, SI 1995/3163 (as amended); and HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 399 et seq. As to the reporting of dangerous occurrences connected with nuclear installations see the Nuclear Installations Act 1965 s 22 (as amended); and FUEL AND ENERGY vol 19(3) (2007 Reissue) PARA 1499.

7 Ie under the Health and Safety at Work etc Act 1974 s 19: see HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 375.

8 Coroners Act 1988 s 8(3)(c). See *R (on the application of Aineto) v Brighton and Hove District Coroner* [2003] EWHC 1896 (Admin), [2003] All ER (D) 353 (Jul).

9 Coroners Act 1988 s 8(3)(d). For these purposes, it is not necessary for there to be a causative link between the death of the deceased and the circumstances in which his death occurred. Instead, a coroner is required to summon a jury if the deceased has died when there are circumstances present the continuance or possible recurrence of which are prejudicial to public health or safety, even though they may not have caused his death: *R v Inner London North District Coroner, ex p Linnane* [1989] 2 All ER 254, [1989] 1 WLR 395, DC. A

coroner's power to summon a jury under the Coroners Act 1988 s 8(3)(d) should be exercised where the circumstances warrant it, even though the death occurred abroad: *Re Neal* (1995) 37 BMLR 164, DC (death of woman in a holiday apartment in Spain from carbon monoxide poisoning, the source of which was an incorrectly installed and badly maintained water heater). In *R v A-G, ex p Ferrante* [1995] CA Transcript 135 (death of a marine parachutist after accident on a training jump), it was suggested that the Coroners Act 1988 s 8(3)(d) was concerned with systemic, rather than individual, fault. See also *R v HM Coroner at Hammersmith, ex p Peach (Nos 1 and 2)* [1980] QB 211, [1980] 2 All ER 7, CA; *R v HM Coroner for the Eastern District of the Metropolitan County of West Yorkshire, ex p National Union of Mineworkers, Yorkshire Area* (1985) 150 JP 58, DC; *R v HM Coroner for Surrey, ex p Wright* [1997] QB 786, [1997] 1 All ER 823 (affd (1996) 35 BMLR 57, CA); *R (on the application of Takoushis) v Inner North London Coroner* [2005] EWCA Civ 1440, [2006] 1 WLR 461, [2005] All ER (D) 416 (Nov) (if coroner satisfied that because of steps taken since relevant events there is no longer risk of continuance or recurrence, there is no obligation to summon jury).

10     Ie in the manner required by the Coroners Act 1988 s 8(2): see PARA 980 et seq post.

11     Ibid s 8(3).

## UPDATE

### 979 Where jury is necessary

NOTE 9--The possibility of recurrence need not be high, and only a section of the public needs to be at the risk of recurrence: *R (on the application of Paul) v Deputy Coroner of the Queen's Household and Assistant Deputy Coroner for Surrey*; *R (on the application of Al Fayed) v Deputy Coroner of the Queen's Household and Assistant Deputy Coroner for Surrey* [2007] EWHC 408 (Admin), [2007] 2 All ER 509.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/980. Summoning of jury.

### 980. Summoning of jury.

The coroner, having decided to hold an inquest with a jury<sup>1</sup>, must by warrant summon not less than seven nor more than 11 persons to appear before him at a specified time and place, there to inquire as jurors into the death of the deceased<sup>2</sup>.

The warrant<sup>3</sup> is addressed to the coroner's officer<sup>4</sup> and to members of the police force for the area of the coroner's jurisdiction. It sets out the number of jurors to be summoned. The person to whom the coroner's warrant is so issued must have regard<sup>5</sup> to the convenience of the persons summoned and to their respective places of residence, and in particular to the desirability of selecting jurors within reasonable daily travelling distance of the place where they are to attend<sup>6</sup>.

On receipt of the warrant the coroner's officer or the member of the police force to whom the warrant is directed makes out the summons<sup>7</sup> to be served on the persons selected as jurors. The summons must be in writing sent by post or delivered by hand and must be delivered to a juror at his address as shown in the electoral register<sup>8</sup>. A written summons sent or delivered to any person must be accompanied by a notice informing him of the effect of the provisions relating to qualification for jury service<sup>9</sup>, excusal from jury service<sup>10</sup> and discharge<sup>11</sup> where a juror may be incapable of acting effectively as a juror<sup>12</sup>. If it appears to the appropriate officer<sup>13</sup>, at any time before the day on which any person duly summoned is to attend, that his attendance is unnecessary, or can be dispensed with, the appropriate officer may withdraw or alter the summons by notice served in the same way as a notice of summons<sup>14</sup>.

It is contrary to the principle of the jury system and improper to have a small panel of regular jurors<sup>15</sup>.

The coroner should not personally interfere with the summoning of the jurors, as such interference may be a reason for quashing the inquisition<sup>16</sup>.

1 References to an inquest with a jury include references to an inquest part of which is held with a jury: Coroners Act 1988 s 35(2). As to cases in which a jury may be dispensed with see PARA 978 ante.

2 Ibid s 8(2)(a). The procedure for summoning coroners' juries prescribed by the Coroners Act 1988 and the Coroners Rules 1984, SI 1984/552 (as amended) is mandatory and not directory: *R v Merseyside Coroner, ex p Carr* [1993] 4 All ER 65, [1994] 1 WLR 578, DC (the fact that the Coroners Rules 1984, SI 1984/552, r 48 (as amended) (see PARA 981 post) makes special provision to cover the informal summoning of jurors to make up a jury which is incomplete makes it impossible to construe the statutory provisions as including an implied power allowing a coroner to summon a jury by informal oral communication). There is no power to summon a jury informally under common law: *R v Merseyside Coroner, ex p Carr* supra. See also *R v Surrey Coroner, ex p Campbell* [1982] QB 661, [1982] 2 All ER 545, DC (where the practice of excluding women from a coroner's jury by prior decision or custom was held to be wrong).

3 For the prescribed form of warrant to summon a jury see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 3. As to the use of forms see PARA 907 note 5 ante.

4 See PARA 948 ante.

5 See subject to the provisions of the Coroners Rules 1984, SI 1984/552 (as amended).

6 Ibid r 44 (amended by SI 1999/3325). Nothing in the Coroners Rules 1984, SI 1984/552, r 44 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

7 For the prescribed form of summons to a juror see *ibid* Sch 4 Form 4; and for the prescribed form of notice to accompany the summons and reply thereto see Sch 4 Form 5 (amended by SI 1999/3325; SI 2004/921).

8 Coroners Rules 1984, SI 1984/552, r 45. Nothing in r 45 has effect in relation to any inquest held by the coroner of the Queen's household: r 53.

9 *Ie* the Coroners Act 1988 s 9 (as amended): see PARA 982 post.

10 *Ie* the Coroners Rules 1984, SI 1984/552, r 51 (as substituted): see PARA 984 post.

11 *Ie* *ibid* r 52 (as amended): see PARA 985 post.

12 See *ibid* r 46 (amended by SI 1999/3325; SI 2004/921). Nothing in the Coroners Rules 1984, SI 1984/552, r 46 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53.

13 'Appropriate officer' has the same meaning as in the Coroners Act 1988 s 9 (as amended) (see PARA 982 note 5 post): Coroners Rules 1984, SI 1984/552, r 2(1) (definition amended by SI 1999/3325).

14 Coroners Rules 1984, SI 1984/552, r 47 (amended by SI 1999/3325). Nothing in the Coroners Rules 1984, SI 1984/552, r 47 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53.

15 *R v Divine, ex p Walton* [1930] 2 KB 29 at 34 (where the court expressed no opinion as to the legality of the practice, but considered it improper and in fact, in that case, a cause leading to the irregularity which had occurred in the inquest). See also *R v Surrey Coroner, ex p Campbell* [1982] QB 661, [1982] 2 All ER 545, DC.

16 *Re Mitchelstown Inquisition* (1888) 22 LR Ir 279.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/981. Summoning in exceptional circumstances.

**981. Summoning in exceptional circumstances.**

If it appears to the coroner<sup>1</sup> that a jury will be, or probably will be, incomplete, the coroner may, if he thinks fit, require any persons who are in, or in the vicinity of, the place of the inquest<sup>2</sup> to be summoned, without any written notice, for jury service up to the number needed, after allowing for any who may not be qualified to serve<sup>3</sup> and for excusals, to make up such number<sup>4</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the meaning of 'inquest' see PARA 938 note 2 ante.

3 See under the Coroners Act 1988 s 9 (as amended): see PARA 982 post.

4 Coroners Rules 1984, SI 1984/552, r 48 (amended by SI 1999/3325). See also *R v Merseyside Coroner, ex p Carr* [1993] 4 All ER 65, [1994] 1 WLR 578, DC. Nothing in the Coroners Rules 1984, SI 1984/552, r 48 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/982. Qualifications and exemptions of jurors.

## **982. Qualifications and exemptions of jurors.**

A person is not qualified to serve as a juror at an inquest held by a coroner unless he is for the time being qualified<sup>1</sup> to serve as a juror in the Crown Court, the High Court and county courts<sup>2</sup>.

If a person serves on a jury knowing that he is disqualified for such service<sup>3</sup>, he is guilty of an offence<sup>4</sup>.

The appropriate officer<sup>5</sup> may at any time put or cause to be put to any person who is summoned to be a juror at an inquest<sup>6</sup> such questions as he thinks fit in order to establish whether or not the person is qualified to serve as a juror at an inquest<sup>7</sup>. Where such a question is put to any person, then, if that person:

- 171 (1) refuses without reasonable excuse to answer;
- 172 (2) gives an answer which he knows to be false in a material particular; or
- 173 (3) recklessly gives an answer which is false in a material particular,

he is guilty of an offence<sup>8</sup>.

If any person:

- 174 (a) duly summoned as a juror at an inquest makes, or causes or permits to be made on his behalf, any false representation to the coroner or the appropriate officer with the intention of evading service as such juror; or
- 175 (b) makes or causes to be made on behalf of another person who has been so summoned any false representation to the coroner or the appropriate officer with the intention of enabling that other person to evade such service,

he is guilty of an offence<sup>9</sup>.

Where an inquest is held into the death of a prisoner who died within a prison, neither a prisoner in the prison nor any person engaged in any sort of trade or dealing with the prison may serve as a juror at the inquest<sup>10</sup>.

1 He in accordance with the Juries Act 1974 s 1 (as substituted): see JURIES vol 61 (2010) PARA 804.

2 Coroners Act 1988 s 9(1). Section 9 does not apply in relation to any inquest held by the coroner of the Queen's household: s 29(7), Sch 2 para 3. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

3 He under the Juries Act 1974 s 1, Sch 1 Pt II (as substituted): see JURIES vol 61 (2010) PARA 805.

4 Coroners Act 1988 s 9(3). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale: s 9(3). 'Standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142; MAGISTRATES vol 29(2) (Reissue) PARA 804. At the date at which this volume states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Criminal Justice Act 2003 s 164; and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 144.

5 A coroner may authorise a person to perform such functions; and references to the appropriate officer are to be construed as references to the person so authorised: Coroners Act 1988 s 9(7).

6 le under *ibid* s 8 (as amended): see PARA 980 ante.

7 *Ibid* s 9(4).

8 *Ibid* s 9(5). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale: s 9(5).

9 *Ibid* s 9(6). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale: s 9(6).

10 *Ibid* s 8(6). As to the reporting of deaths in prisons see PARA 952 ante.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/983. Excusal for previous jury service.

**983. Excusal for previous jury service.**

If a person duly summoned to be a juror at an inquest<sup>1</sup> shows to the satisfaction of the appropriate officer<sup>2</sup> or of the coroner<sup>3</sup>:

- 176 (1) that he has served on a jury, or duly attended to serve on a jury, at inquests<sup>4</sup> held in that coroner's jurisdiction on three or more days<sup>5</sup> in the period of one year ending with the service of the summons on him; or
- 177 (2) that he has served on a jury, or duly attended to serve on a jury, in the Crown Court, the High Court or any county court in the period of two years ending with the service of the summons on him; or
- 178 (3) that any such court or a coroner has excused him from jury service for a period which has not terminated,

the appropriate officer or the coroner must excuse him from attending, or further attending, in pursuance of the summons<sup>6</sup>.

1 He under the Coroners Act 1988 s 8 (as amended): see PARA 980 ante.

2 For the meaning of 'appropriate officer' see PARA 980 note 13 ante.

3 For the meaning of 'coroner' see PARA 938 note 1 ante.

4 For the meaning of 'inquest' see PARA 938 note 2 ante.

5 For these purposes, in reckoning the days, no account is to be taken of any day or days to which an inquest is adjourned: Coroners Rules 1984, SI 1984/552, r 49(2).

6 Ibid r 49(1) (amended by SI 1999/3325). Nothing in the Coroners Rules 1984, SI 1984/552, r 49 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/984. Excusal for certain persons and discretionary excusal.

**984. Excusal for certain persons and discretionary excusal.**

If any person summoned to be a juror<sup>1</sup> shows to the satisfaction of the appropriate officer<sup>2</sup> that there is good reason why he should be excused from attending in pursuance of the summons, the appropriate officer may excuse him from so attending<sup>3</sup>.

The appropriate officer must excuse a full-time serving member of Her Majesty's naval, military or air forces from attending in pursuance of a summons if that member's commanding officer certifies to the appropriate officer that it would be prejudicial to the efficiency of the service if that member were required to be absent from duty<sup>4</sup>.

Where a person summoned is a coroner<sup>5</sup>, the appropriate officer must excuse him from attending in pursuance of that summons if it was issued in relation to the area for which he has been appointed coroner<sup>6</sup> or deputy or assistant deputy coroner<sup>7</sup>, or in relation to which he is acting as a coroner<sup>8</sup>.

1    Ie under the Coroners Act 1988 s 8 (as amended): see PARA 980 ante.

2    For the meaning of 'appropriate officer' see PARA 980 note 13 ante.

3    Coroners Rules 1984, SI 1984/552, r 51(1) (r 51 substituted by SI 2004/921). The coroner before whom a person is summoned to attend under the Coroners Act 1988 s 8 (as amended) may excuse that person from so attending: Coroners Rules 1984, SI 1984/552, r 51(7) (as so substituted).

4    Ibid r 51(2) (as substituted: see note 3 supra). Rule 51(1) (as substituted) (see the text to notes 1-3 supra) continues to apply to a full-time serving member of Her Majesty's naval, military or air forces in a case where he is not entitled to be excused under r 51(2) (as substituted): r 51(3) (as so substituted).

5    For the meaning of 'coroner' see PARA 938 note 1 ante.

6    Ie under the Coroners Act 1988 s 1(1) (as substituted and amended): see PARA 907 ante.

7    Ie under ibid s 6: see PARA 932 ante.

8    Coroners Rules 1984, SI 1984/552, r 51(4) (as substituted: see note 3 supra). A person acts as coroner in relation to an area under the Coroners Act 1988 s 5(3): see PARA 915 ante. In the case of a coroner appointed for such an area as is mentioned in s 1(1)(c) (as substituted and amended) or s 1(1)(d) (as substituted) (see PARA 907 heads (3), (4) ante), which has been divided into coroners' districts pursuant to s 4(2) (as amended) (see PARA 909 ante), the reference in the Coroners Rules 1984, SI 1984/552, r 51(4) (as substituted) to the area for which he has been appointed must be construed as a reference to the district to which he has been assigned under the Coroners Act 1988 s 4(4) (as amended) (see PARA 909 ante): Coroners Rules 1984, SI 1984/552, r 51(5) (as so substituted). Rule 51(1) (as substituted) continues to apply to a coroner in a case where he is not entitled to be excused under r 51(4) (as substituted): r 51(6) (as so substituted).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/985. Discharge of summons in case of doubt as to capacity to act effectively as a juror.

**985. Discharge of summons in case of doubt as to capacity to act effectively as a juror.**

Where it appears to the appropriate officer<sup>1</sup>, in the case of a person attending in pursuance of a summons duly served on him<sup>2</sup>, that on account of physical disability or insufficient understanding of English there is doubt as to his capacity to act effectively as a juror, the person may be brought before the coroner<sup>3</sup>, who must determine whether or not he should act as a juror and, if not, must discharge the summons<sup>4</sup>.

1 For the meaning of 'appropriate officer' see PARA 980 note 13 ante.

2 He under the Coroners Act 1988 s 8 (as amended): see PARA 980 ante.

3 For the meaning of 'coroner' see PARA 938 note 1 ante.

4 Coroners Rules 1984, SI 1984/552, r 52 (amended by SI 1999/3325). Nothing in the Coroners Rules 1984, SI 1984/552, r 52 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/986. Certificate of attendance.

**986. Certificate of attendance.**

A person duly attending to serve on a jury in compliance with a summons served on him<sup>1</sup> is entitled, on application to the appropriate officer<sup>2</sup>, to a certificate recording that he has so attended<sup>3</sup>.

1 He under the Coroners Act 1988 s 8 (as amended): see PARA 980 ante.

2 For the meaning of 'appropriate officer' see PARA 980 note 13 ante.

3 Coroners Rules 1984, SI 1984/552, r 50 (amended by SI 1999/3325). For the prescribed form of certificate of attendance see the Coroners Rules 1984, SI 1984/552, r 50 (as amended), r 60, Sch 4 Form 6. As to the use of forms see PARA 907 note 5 ante. Nothing in r 50 (as amended) has effect in relation to any inquest held by the coroner of the Queen's household: r 53. As to the coroner of the Queen's household see PARA 935 ante. As to jurors at an inquest held by the coroner of the Queen's household see PARA 935 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(i) The Jury/987. Failure to attend or refusal to serve.

**987. Failure to attend or refusal to serve.**

Where a person duly summoned as a juror at an inquest:

- 179 (1) does not, after being openly called three times, appear to the summons; or
- 180 (2) appears to the summons but refuses without reasonable excuse to serve as a juror,

the coroner may impose on that person a fine<sup>1</sup>.

Notwithstanding anything in the above provisions, a juror is not liable to any penalty for non-attendance on a coroner's jury unless the summons requiring him to attend was duly served on him no later than six days before the day on which he was required to attend<sup>2</sup>.

1 Coroners Act 1988 s 10(1). The fine must not exceed £1,000: s 10(1) (amended by the Criminal Justice Act 1991 s 17(3), Sch 4 Pt I). See also the Coroners Act 1988 s 10(3); and PARA 1017 post. For the prescribed form of certificate of fine see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 11. As to the use of forms see PARA 907 note 5 ante.

A fine imposed by a coroner is to be treated for the purpose of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the coroner's court was held; and the coroner must as soon as practicable after imposing the fine give particulars of the fine to the designated officer for that court: Criminal Justice Act 1988 s 67(1) (amended by the Courts Act 2003 s 109(1), Sch 8 para 304).

2 Coroners Act 1988 s 10(4).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/988. Purpose of inquest.

## (ii) Opening of Inquest

### 988. Purpose of inquest.

An inquest is a fact-finding inquiry conducted by a coroner, with or without a jury, to establish reliable answers to four important but limited factual questions:

- 181 (1) the identity of the deceased;
- 182 (2) the place of death;
- 183 (3) the time of death; and
- 184 (4) how the deceased came by his death<sup>1</sup>.

In most cases the questions in heads (1) to (3) above are not hard to answer but in a minority of cases the answer may be problematical. The question in head (4) above, and that to which evidence and inquiry are most often and most closely directed, relates to how the deceased came by his death. The proceedings and evidence at an inquest must be directed solely to ascertaining these matters and no expression of opinion on any other matter is permitted<sup>2</sup>.

In cases not involving the Human Rights Act 1998, the task is not to ascertain how the deceased died, which might raise general and far-reaching issues, but how the deceased came by his death, a more limited question directed to the means by which the deceased came by his death<sup>3</sup>.

It is not the function of a coroner or his jury to determine, or appear to determine, any question of criminal or civil liability, to apportion guilt or attribute blame<sup>4</sup>. Nor is it the function of the inquest to provide a forum for attempts to gather evidence for pending or future criminal or civil proceedings<sup>5</sup>.

In an inquest it should never be forgotten that there are no parties, no indictment, no prosecution, no defence and no trial, but simply an attempt to establish facts. It is an inquisitorial process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends, the judge holding the balance or the ring, whichever metaphor one chooses. The function of an inquest is to seek out and record as many of the facts concerning the death as public interest requires<sup>6</sup>. The coroner must ensure that the relevant facts are exposed to public scrutiny, particularly if there is evidence of foul play, abuse or inhumanity. He fails in his duty if his investigation is superficial, slipshod or perfunctory. The responsibility is, however, his. He must set the bounds of the inquiry; and he must rule on the procedure to be followed. His decisions, like those of any other judicial officer, must be respected unless and until they are varied or overruled<sup>7</sup>.

1 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 23, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 989, CA, per Sir Thomas Bingham MR. See further PARA 1025 post.

2 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 23, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 989, CA, per Sir Thomas Bingham MR.

3 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 23, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 989, CA, per Sir Thomas Bingham MR. In relation to cases involving the Human Rights Act 1998 see, however, *R (on the application of Middleton)*

*v West Somerset Coroner*[2004] UKHL 10, [2004] 2 AC 182, [2004] 2 All ER 465; *R (on the application of Sacker) v West Yorkshire Coroner*[2004] UKHL 11, [2004] 2 All ER 487, [2004] 1 WLR 796; and PARA 989 post.

4 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 24, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 989, CA, per Sir Thomas Bingham MR. See note 3 supra. See further PARA 1028 post.

5 *R v Poplar Coroner, ex p Thomas*[1993] QB 610 at 629, [1993] 2 All ER 381 at 387, CA, per Dillon LJ.

6 *R v South London Coroner, ex p Thompson* (1982) 126 Sol Jo 625, DC. There must be a full and effective inquiry into the death: *R (on the application of Davies) v Birmingham Deputy Coroner*[2003] EWCA Civ 1739, [2003] All ER (D) 40 (Dec).

7 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 26, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 991, CA, per Sir Thomas Bingham MR.

## UPDATE

### 988 Purpose of inquest

NOTE 6--As an alleged actor risks the stigma of a verdict of unlawful killing without having any formal entitlement to defend himself, where insanity is properly raised on the evidence, a verdict of unlawful killing is only available if the coroner's court is satisfied that insanity is disproved to the criminal standard: *R (on the application of O'Connor) v HM Coroner for the District of Avon*[2009] EWHC 854 (Admin), [2009] 4 All ER 1020, DC.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/989. Coroners and human rights.

### **989. Coroners and human rights.**

Under the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>1</sup> everyone's right to life must be protected by law<sup>2</sup>. This right has been interpreted by the European Court to place both a substantive obligation to put in place a framework of laws which protect the right to life and enable the proper investigation of deaths, as well as a procedural obligation on the state to carry out effective and independent public investigation into deaths where it appears that the right to life has been violated and that an agent of the state might be implicated<sup>3</sup>. It is necessary to distinguish cases of death of a person detained forcibly by the state (for example, death in prison) from other cases where the state may potentially be responsible (for example, death in a state-run hospital). In the former case, the state must inquire of its own motion, and not leave it to others to institute proceedings. In such cases, under English law, the coroner's inquest is often the only or main investigation into a death<sup>4</sup> and the courts have considered whether the existing regime<sup>5</sup> is sufficient to fulfil the United Kingdom's procedural obligations under the Convention. It has been decided that the present statutory regime is sufficient but the wording should be interpreted so that when considering how<sup>6</sup> the deceased came by his death the coroner or jury must decide not simply by what means but by what means and in what circumstances he met his death<sup>7</sup>. The traditional short form verdict will be sufficient in most cases<sup>8</sup> but in cases that must meet the requirements of the Convention the verdict must include the conclusions of the coroner or jury on the disputed factual issues at the centre of the case and an expanded or narrative form of verdict should be used<sup>9</sup>. However, the statutory prohibitions on the coroner or jury expressing his or their opinion<sup>10</sup> or finding civil or criminal liability<sup>11</sup> should not be infringed and the verdict should be of a factual nature<sup>12</sup>.

In the second class of case, where the deceased was not forcibly detained by the state, it is necessary to distinguish cases where, at its highest, the state's responsibility would be as a result of simple negligence from those where such responsibility would flow from gross negligence (sufficient to ground manslaughter). In the former cases, there is no need for the state to inquire of its own motion, as long as the system is adequate as a whole to provide for a practical and effective investigation. The English system, including the coroner's inquest in its original form, satisfies that requirement<sup>13</sup>. In the latter cases, the question stands unresolved but it would appear that the better view is that the state must inquire of its own motion<sup>14</sup>.

The duty to investigate a death in compliance with the state's duties under the Convention only applies to deaths occurring after the Human Rights Act 1998 came into force, so far as concerns the duty of a public authority to act compatibly with Convention rights under the Human Rights Act 1998<sup>15</sup>. However, the question whether, in applying the ordinary coroners' legislation, the coroner has a duty to interpret it as far as possible compatibly with the Convention rights under the Human Rights Act 1998<sup>16</sup>, in relation to a death before the Act came into force is unsettled<sup>17</sup>.

1 The Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969). The Convention has been incorporated into English law by the Human Rights Act 1998 which came into force on 2 October 2000: see the Human Rights Act 1998 (Commencement No 2) Order 2000, SI 2000/1851; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 See the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) art 2; and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 123.



3 See eg *McCann v United Kingdom* [1995] ECHR 18984/91, 21 EHRR 97; *Jordan v United Kingdom* (2001) 11 BHRC 1, ECtHR; *R (on the application of Amin) v Secretary of State for the Home Department* [2003] UKHL 51, [2004] 1 AC 653, [2003] 4 All ER 1264; *R (on the application of Khan) v Secretary of State for Health* [2003] EWCA Civ 1129, [2003] 4 All ER 1239.

4 Ie unless there is a criminal investigation (see PARA 1001 post) or a public inquiry (see PARA 1000 post) into the death.

5 Ie the regime under the Coroners Act 1988 and the Coroners Rules 1984, SI 1984/552 (as amended): see PARA 949 et seq ante.

6 See the Coroners Act 1988 s 11(5)(b)(ii); the Coroners Rules 1984, SI 1984/552, r 36(1)(b); and PARAS 1025, 1046 post.

7 *R (on the application of Middleton) v West Somerset Coroner* [2004] UKHL 10 at para [35], [2004] 2 AC 182 at para [35], [2004] 2 All ER 465 at para [35] per Lord Bingham of Cornhill; *R (on the application of Sacker) v West Yorkshire Coroner* [2004] UKHL 11, [2004] 2 All ER 487, [2004] 1 WLR 796.

8 See PARA 1028 et seq post. The decision in *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972, CA, was expressly upheld as being an accurate, if limited, statement of the law as it then stood (see *R (on the application of Middleton) v West Somerset Coroner* [2004] UKHL 10 at para [22], [2004] 2 AC 182 at para [22], [2004] 2 All ER 465 at para [22] per Lord Bingham of Cornhill. See PARA 988 ante.

9 *R (on the application of Middleton) v West Somerset Coroner* [2004] UKHL 10 at para [36], [2004] 2 AC 182 at para [36], [2004] 2 All ER 465 at para [36] per Lord Bingham of Cornhill.

10 See the Coroners Rules 1984, SI 1984/552, r 36(2); and PARA 1025 post.

11 See *ibid* r 42; and PARA 1028 post.

12 *R (on the application of Middleton) v West Somerset Coroner* [2004] UKHL 10 at para [37], [2004] 2 AC 182 at para [37], [2004] 2 All ER 465 at para [37] per Lord Bingham of Cornhill.

13 *R (on the application of Goodson) v Bedfordshire and Luton Coroner (Luton and Dunstable Hospital NHS Trust, interested party)* [2004] EWHC 2931 (Admin), [2005] 2 All ER 791, [2006] 1 WLR 432; *R (on the application of Takoushis) v Inner North London Coroner* [2005] EWCA Civ 1440, [2006] 1 WLR 461, [2005] All ER (D) 416 (Nov).

14 See *R (on the application of Takoushis) v Inner North London Coroner* [2005] EWCA Civ 1440 at para [96], [2006] 1 WLR 461 at para [96], [2005] All ER (D) 416 (Nov).

15 Ie under the Human Rights Act 1998 s 6. See *Re McKerr* [2004] UKHL 12, [2004] 2 All ER 409, [2004] All ER (D) 210 (Mar); *R (on the application of Challenger) v Legal Services Commission* [2004] EWHC 925 (Admin), [2004] All ER (D) 322 (Apr). As to the extra-territorial application of the Human Rights Act 1998 see *R (on the application of Al-Skeini) v Secretary of State for Defence* [2005] EWCA Civ 1609, [2005] All ER (D) 337 (Dec); *Pearson v Inner London North Coroner* [2005] EWHC 833 (Admin), [2005] All ER (D) 73 (May).

16 Ie under the Human Rights Act 1998 s 3.

17 There are authorities holding that *ibid* s 3 cannot apply (see *R (on the application of Khan) v Secretary of State for Health* [2003] EWHC 1414 (Admin), [2003] All ER (D) 220 (Jun) (revsd [2003] EWCA Civ 1129, [2003] 4 All ER 1239); *Police Service of Northern Ireland v McCaughey* [2005] NICA 1, [2005] NI 344; *Pearson v Inner London North Coroner* [2005] EWHC 833 (Admin), [2005] All ER (D) 73 (May)) and others that it does (see *R (on the application of Khan) v Secretary of State for Health* [2003] EWCA Civ 1129, [2003] 4 All ER 1239; *Re Jordan* [2004] NICA 30; *R (on the application of Hurst) v London Northern District Coroner* [2005] EWCA Civ 890, [2005] 1 WLR 3892, [2005] All ER (D) 316 (Jul)) and House of Lords decisions are awaited on a number of these cases.

## UPDATE

### 989 Coroners and human rights

NOTE 15--*Al-Skeini*, cited, affirmed: [2007] UKHL 26, [2008] 1 AC 153.

NOTE 17--*Hurst*, cited, reversed: [2007] UKHL 13, [2007] 2 All ER 1025.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/990. Inquest to be held in public.

**990. Inquest to be held in public.**

Every inquest<sup>1</sup> must be held in public; but the coroner<sup>2</sup> may direct that the public be excluded from an inquest or any part of an inquest if he considers that it would be in the interest of national security to do so<sup>3</sup>. An inquest remains public where a witness gives evidence from behind a screen<sup>4</sup>, or where the limited accommodation for the public is filled and others cannot gain admittance<sup>5</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 Coroners Rules 1984, SI 1984/552, r 17. However, national security is not involved merely because the deceased is alleged to have worked for the security services: *R v McHugh, ex p Trelford* (22 March 1984, unreported).

4 *R v Newcastle upon Tyne Coroner, ex p A* (1998) Times, 19 January.

5 *R v Secretary of State, ex p Devine* (1988) 14 NIJB 10.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/991. Joinder of inquests.

### **991. Joinder of inquests.**

Where there has been an accident involving many deaths, as, for example, a railway or mining disaster, it is common for the inquests to be held concurrently<sup>1</sup>. In such cases, since the inquest on each body is a separate inquest, the jury will need to be sworn to inquire into each death and a separate inquisition will be needed for each death. While evidence of identification will differ in each case and evidence of the cause of death may not be the same in all cases, much of the evidence will be common to all inquests. A medical practitioner who makes a post-mortem examination on all or any of the bodies or who attends an inquest on all or any of the bodies is entitled to the statutory fee in respect of each such body<sup>2</sup>.

If, however, there is not the nexus of a common accident, the inquests should not be held concurrently<sup>3</sup>.

1 *R v Durham County Council, ex p Graham* (1912) 106 LT 949. For examples of inquests being held concurrently see eg those following the Zeebrugge ferry disaster in 1987, the King's Cross Underground fire in 1988 and the Clapham Junction rail crash in 1990. As to removal of the bodies see PARA 955 ante; and as to the practice where a major disaster has occurred see Jervis on Coroners (12th Edn, 2002) PARA 17-01 et seq.

2 As to fees see PARA 1062 post.

3 *Re Mitchelstown Inquisition* (1888) 22 LR Ir 279 (during an affray several persons were shot and killed by the police; the shootings did not all take place at the same time or at the same place; the coroner summoned one jury to inquire into all the deaths; for this and other reasons the inquisitions were quashed).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/992. Opening of inquest.

**992. Opening of inquest.**

Every inquest<sup>1</sup> must be opened in a formal manner<sup>2</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 Coroners Rules 1984, SI 1984/552, r 16.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/993. Swearing of jury.

### 993. Swearing of jury.

In the case of an inquest with a jury<sup>1</sup>, when not less than seven jurors are assembled, they must be sworn<sup>2</sup> by or before the coroner diligently to inquire into the death of the deceased and to give a true verdict according to the evidence<sup>3</sup>. An oath administered in the absence of the coroner by some other person, such as a clerk, has no effect<sup>4</sup>. No challenge may be made of any of the jurors<sup>5</sup>, although the coroner may refuse to swear a person objected to and his decision on that question may be challenged<sup>6</sup>. A juror may not be sworn after evidence has been given which he has not heard, and, if that is done, the inquisition is liable to be quashed<sup>7</sup>.

Personation of a juror is an indictable offence at common law<sup>8</sup>.

A coroner may discharge a juror and continue an inquest provided that the number of jurors does not fall below the minimum required of seven; and the discharge of a single juror does not necessarily require the coroner to start proceedings again with a freshly empanelled jury<sup>9</sup>.

1 As to references to an inquest held with a jury see PARA 980 note 1 ante.

2 For the prescribed form of oath see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 7 (substituted by SI 1985/1414). As to the use of forms see PARA 907 note 5 ante. If a juror wishes to affirm or swear in Scottish form or in any other form authorised by law, the form of oath must be modified accordingly: Coroners Rules 1984, SI 1984/552, Sch 4 Form 7 note (as so substituted). As to the making of a solemn affirmation instead of swearing an oath see the Oaths Act 1978 ss 5, 6; and CIVIL PROCEDURE vol 11 (2009) PARA 1023.

3 Coroners Act 1988 s 8(2)(b). As to the manner of administering oaths see the Oaths Act 1978 s 1; and CIVIL PROCEDURE vol 11 (2009) PARA 1021 et seq.

4 See *R v Ferrand* (1819) 3 B & Ald 260. As to the administration of oaths by unauthorised persons see also *R v Hallett* (1851) 2 Den 237.

5 *R v Ingham* (1864) 5 B & S 257 at 276 per Blackburn J.

6 See *Withipole's Case* (1628) Cro Car 134, 1 Hale PC 60.

7 *R v Yorkshire Coroner* (1863) 9 LT 424.

8 See CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 730.

9 *R v Merseyside Coroner, ex p Carr* [1993] 4 All ER 65, [1994] 1 WLR 578, DC.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/994. Assessors etc.

#### **994. Assessors etc.**

A coroner may invite an assessor to sit with him if he considers it necessary having regard to the technical nature of the evidence which may have to be considered<sup>1</sup>. An assessor may<sup>2</sup> examine witnesses who give technical advice, provided that it is done under the control of the coroner and is restricted to matters within the assessor's special experience<sup>3</sup>. The role of an assessor does not extend to his giving expert evidence himself, since there is a danger that the evidence of such a witness may attract the special confidence of the coroner and may carry greater weight than would otherwise be the case<sup>4</sup>.

1 *R v HM Coroner for Surrey, ex p Wright* [1997] QB 786, [1997] 1 All ER 823; affd (1996) 35 BMLR 57, CA.

2 *Ie* under the Coroners Rules 1984, SI 1984/552, r 20 (as amended); see PARA 1023 post.

3 *R v HM Coroner for Surrey, ex p Wright* [1997] QB 786, [1997] 1 All ER 823; affd (1996) 35 BMLR 57, CA.

4 *R v HM Coroner for Surrey, ex p Wright* [1997] QB 786, [1997] 1 All ER 823; affd (1996) 35 BMLR 57, CA; *Bow Spring (Owners) v Manzanillo II (Owners)* [2004] EWCA Civ 1007, [2004] 4 All ER 899.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ii) Opening of Inquest/995. Prohibition of photographs and sketches.

### **995. Prohibition of photographs and sketches.**

No person may take or attempt to take in a coroner's court any photograph, or with a view to publication make or attempt to make in a coroner's court any portrait or sketch<sup>1</sup>, of any person, being the coroner or a juror or a witness in or a party to any proceedings before the coroner's court, or publish any photograph, portrait or sketch taken or made in contravention of these provisions, or any reproduction thereof<sup>2</sup>. If any person acts in contravention of these provisions, he is liable on summary conviction to a fine in respect of each offence<sup>3</sup>. Photography in such situations may also amount in some circumstances to an infringement of human rights<sup>4</sup>.

1 For these purposes, a photograph, portrait or sketch is deemed to be a photograph, portrait or sketch taken or made in a coroner's court if it is taken or made in the court-room or in the building or in the precincts of the building in which the coroner's court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court-room or any such building or precincts: Criminal Justice Act 1925 s 41(2)(a), (c). As from a day to be appointed, s 41(2)(a) is substituted, without changing the sense of the provision as set out above, by the Constitutional Reform Act 2005 s 47(1). At the date at which this volume states the law, no such day had been appointed).

2 Criminal Justice Act 1925 s 41(1), (2)(b) (amended by the Courts Act 1971 s 56(4), Sch 11 Pt IV).

3 Criminal Justice Act 1925 s 41(1). The fine must not exceed level 3 on the standard scale: see s 41(1) (amended by the Criminal Justice Act 1982 ss 38, 46). As to the standard scale see PARA 982 note 4 ante. See also *R v D (Contempt of court: Illegal photography)* (2004) Times, 13 May, CA.

4 See *Von Hannover v Germany* (2004) 16 BHRC 545, ECtHR (failure of German law to give Princess Caroline of Monaco adequate protection from media intrusion into her private life, even when going about her everyday affairs in public).

### **UPDATE**

### **995 Prohibition of photographs and sketches**

NOTE 1--Appointed day is 1 October 2009: SI 2009/1604.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iii) Exhumation; View of the Body or the Locus/996. Exhumation.

### **(iii) Exhumation; View of the Body or the Locus**

#### **996. Exhumation.**

A coroner may order the exhumation of the body of a person buried within his district<sup>1</sup> where it appears to him that it is necessary for the body to be examined:

- 185 (1) for the purpose of his holding an inquest into that person's death or discharging any other function of his in relation to the body or the death; or
- 186 (2) for the purposes of any criminal proceedings which have been instituted or are contemplated in respect of the death of that person or of some other person who came by his death in circumstances connected with the death of the person whose body is needed for examination<sup>2</sup>.

The power of a coroner to order the exhumation of a body is exercisable by warrant<sup>3</sup> under his hand<sup>4</sup>.

No body may be ordered by a coroner to be exhumed except under the above provisions<sup>5</sup>.

Although a coroner may order the exhumation of a body for the purpose of criminal proceedings, if an inquest has been completed on the body, all coroners are *functus officio*<sup>6</sup> and another inquest may not be held without an order of the High Court<sup>7</sup>.

1 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

2 Coroners Act 1988 s 23(1).

3 For the prescribed form of warrant to exhume see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 2. As to the use of forms see PARA 907 note 5 ante.

4 Coroners Act 1988 s 23(2).

5 Ibid s 23(3). A coroner who has assumed jurisdiction to hold an inquest under s 14 (inquests out of jurisdiction) also has power to order the exhumation of a body under s 23: see s 14(7)(a); and PARA 954 head (i) ante.

6 *R v White* (1860) 3 E & E 137. See also PARA 1051 post.

7 As to the power of the High Court to order a new inquest see PARA 1073 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iii) Exhumation; View of the Body or the Locus/997. No necessity to view the body.

**997. No necessity to view the body.**

It is not obligatory for a coroner holding an inquest into a death to view the body; and the validity of such an inquest may not be questioned in any court on the ground that the coroner did not view the body<sup>1</sup>.

<sup>1</sup> Coroners Act 1988 s 11(1). Prior to 17 July 1980, at or before the first sitting of an inquest on a body the coroner had to view the body and, if, before the body was buried, the coroner so directed, or if a majority of the jury so desired, the body had to be viewed by the inquest jury, although, where a previous inquest on the body had been begun but not completed, it was not obligatory on the coroner holding the subsequent inquest to view the body: see the Coroners (Amendment) Act 1926 s 14(1) (repealed); and the Coroners Act 1980 s 1, Sch 2 (repealed).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iii) Exhumation; View of the Body or the Locus/998. View of the locus.

**998. View of the locus.**

In some cases it may be desirable for the coroner or the jury, as the case may be, to inspect the scene of the accident or some machinery<sup>1</sup>. It is a matter for the coroner alone to decide, although subject to judicial review in an appropriate case<sup>2</sup>. The jury must be sworn<sup>3</sup> before they may view and at the view there should be no improper communication with the jury. It is preferable that the coroner should not accompany the jury<sup>4</sup>.

1 As to a coroner's power of entry onto property see PARA 1056 post.

2 *R v Secretary of State, ex p Devine* (1988) 14 NIJB 10.

3 As to the swearing of the jury see PARA 993 ante.

4 *R v Divine, ex p Walton* [1930] 2 KB 29.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/999. General power to adjourn inquest.

## **(iv) Adjournment**

### **999. General power to adjourn inquest.**

The coroner may in his discretion, for good reason, adjourn the inquest to another day<sup>1</sup>, at the same or another place, first taking the recognisances of the jurors and of the witnesses required again<sup>2</sup> for their appearance at the adjourned time and place<sup>3</sup>. The coroner is not, however, justified in adjourning the jury to places at a great distance by way of punishment<sup>4</sup>; and he may be open to criticism if he adjourns the inquest for an excessively long time<sup>5</sup>. Except in special circumstances, the coroner ought not to adjourn the inquest for the purpose of drawing up the inquisition; this should be drawn up immediately after the verdict is returned and be forthwith signed by the jurors<sup>6</sup>.

In certain cases the coroner must adjourn the inquest<sup>7</sup>.

Every inquest that is adjourned must be adjourned in a formal manner<sup>8</sup>.

1 Thus a coroner may open an inquest, take evidence of identification, issue the order for disposal of the body and adjourn the inquest. In *R v Margate Coroner* (1865) 11 LT 707, Blackburn J doubted obiter whether a coroner had power to adjourn an inquest sine die. Where, however, there is no possibility of an adjourned inquest being resumed, eg where an inquest adjourned under the Visiting Forces Act 1952 s 7 (as amended) (see PARAS 959-960 ante) is not to be resumed, an adjournment sine die is necessary.

2 For the prescribed form of recognisance see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 12; and for the prescribed form of certificate of forfeiture of recognisance see Sch 4 Form 19. As to the use of forms see PARA 907 note 5 ante.

3 As to the coroner's duty to supply an interim certificate of the fact of death where an inquest is adjourned see PARA 1009 post.

4 *Smith's Case* (1696) Comb 386.

5 See eg *R v HM Coroner for South Glamorgan, ex p BP Chemicals Ltd* (1987) 151 JP 799, DC (where the inquest was adjourned for three years).

6 *R v Mallet and Chilcote* (1846) 1 Cox CC 336.

7 See PARAS 959 ante, 1001 et seq post.

8 Coroners Rules 1984, SI 1984/552, r 16.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1000. Adjournment of inquest in event of judicial inquiry.

### **1000. Adjournment of inquest in event of judicial inquiry.**

If on an inquest into a death the coroner is informed by the Lord Chancellor before the conclusion of the inquest that: (1) a public inquiry conducted or chaired by a judge is being, or is to be, held into the events surrounding the death; and (2) the Lord Chancellor considers that the cause of death is likely to be adequately investigated by the inquiry, the coroner must, in the absence of any exceptional reason to the contrary, adjourn the inquest and, if a jury has been summoned, may, if he thinks fit, discharge them<sup>1</sup>.

Where a coroner adjourns an inquest<sup>2</sup>, he must send to the registrar of deaths a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars which are required<sup>3</sup> to be registered concerning the death<sup>4</sup>.

Where a coroner has adjourned an inquest<sup>5</sup>, the Lord Chancellor must send him the findings of the public inquiry as soon as reasonably practicable after their publication<sup>6</sup>.

A coroner may only resume an inquest which has been adjourned<sup>7</sup> if in his opinion there is exceptional reason for doing so<sup>8</sup>; and he must not do so: (a) before the end of the period of 28 days beginning with the day on which the findings of the public inquiry are published<sup>9</sup>; or (b) if the Lord Chancellor notifies the coroner that this provision applies, before the end of the period of 28 days beginning with the day on which the public inquiry is concluded<sup>10</sup>. Where a coroner resumes an inquest which has been adjourned<sup>11</sup>, the provisions relating to the summoning of a jury<sup>12</sup> do not apply in relation to that inquest<sup>13</sup>, and, if he summons a jury (but not where he resumes without a jury, or with the same jury as before the adjournment), he must proceed in all respects as if the inquest had not previously begun<sup>14</sup>. Where a coroner does not resume an inquest which he has adjourned<sup>15</sup>, he must send to the registrar of deaths a certificate under his hand stating any findings of the public inquiry in relation to the death<sup>16</sup>.

1 Coroners Act 1988 s 17A(1) (s 17A added by the Access to Justice Act 1999 s 71(1)). As to the modification of the role of the Lord Chancellor, and the consequent transfer of various functions, see eg No 10 Downing Street press release *Modernising Government* (12 June 2003); and the Constitutional Reform Act 2005. As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

2 Ie in compliance with the Coroners Act 1988 s 17A(1) (as added): see the text to note 1 supra.

3 Ie under the Births and Deaths Registration Act 1953: see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq.

4 Coroners Act 1988 s 17A(2) (as added: see note 1 supra).

5 See note 2 supra.

6 Coroners Act 1988 s 17A(3) (as added: see note 1 supra).

7 See note 2 supra. As to the admission of documentary evidence when an inquest is resumed see PARA 1020 post.

8 Coroners Act 1988 s 17A(4) (as added: see note 1 supra). In the case of the government scientist, Dr David Kelly, the Oxfordshire coroner, after a hearing on 16 March 2004, decided that there was not exceptional reason to resume the inquest after Lord Hutton's inquiry, but considered that there would have been if that inquiry had not investigated the cause of death adequately.

9 Coroners Act 1988 s 17A(4)(a) (as added: see note 1 supra).

10 Ibid s 17A(4)(b) (as added: see note 1 supra).

11 See note 2 supra.

12 Ie the Coroners Act 1988 s 8(3): see PARA 979 ante.

13 Ibid s 17A(5)(a) (as added: see note 1 supra).

14 Ibid s 17A(5)(b) (as added: see note 1 supra). In such circumstances, the Coroners Act 1988 applies as if the resumed inquest were a fresh inquest: s 17A(5)(b) (as so added).

15 See note 2 supra.

16 Coroners Act 1988 s 17A(6) (as added: see note 1 supra). This is without prejudice to s 17A(2) (as added) (see the text and notes 2-4 supra): s 17A(6) (as so added).

## **UPDATE**

### **1000 Adjournment of inquest in event of judicial inquiry**

TEXT AND NOTES--The Lord Chancellor's functions under the 1988 Act s 17A are protected functions for the purposes of the Constitutional Reform Act 2005 s 19: see s 19(5), Sch 7 para 4; and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 489A.1.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1001. Adjournment of inquest in event of criminal proceedings.

**1001. Adjournment of inquest in event of criminal proceedings.**

If, on an inquest into a death, the coroner before the conclusion of the inquest:

- 187 (1) is informed by the designated officer for a magistrates' court<sup>1</sup> that some person has been charged before the magistrates' court with:
- 3
  4. (a) the murder, manslaughter or infanticide of the deceased;
  5. (b) the offence of causing death by dangerous driving<sup>2</sup> or causing death by careless driving while under the influence of drink or drugs<sup>3</sup>;
  6. (c) the offence<sup>4</sup> of aiding, abetting, counselling or procuring the suicide of the deceased; or
  7. (d) the offence<sup>5</sup> of causing or allowing the death of a child or vulnerable adult<sup>6</sup>; or
  - 4
- 188 (2) is informed by the Director of Public Prosecutions that some person has been charged by examining justices or, in some circumstances, sent for trial for an offence<sup>7</sup>, whether or not involving the death of a person other than the deceased, alleged to have been committed in circumstances connected with the death of the deceased, not being an offence within head (1) above, and is requested by the Director of Public Prosecutions to adjourn the inquest<sup>8</sup>,

the coroner must, in the absence of reason to the contrary, adjourn the inquest until after the conclusion of the relevant criminal proceedings<sup>9</sup> and, if a jury has been summoned, may, if he thinks fit, discharge them<sup>10</sup>.

The coroner:

- 189 (i) need not adjourn the inquest in a case within head (1) above if, before he has done so, the Director of Public Prosecutions notifies him that adjournment is unnecessary; and
- 190 (ii) may in any case resume the adjourned inquest before the conclusion of the relevant criminal proceedings if notified by the Director of Public Prosecutions that it is open to him to do so<sup>11</sup>.

After the conclusion of the relevant criminal proceedings, or on being notified under head (ii) above before their conclusion, the coroner may, subject to the following provisions, resume the adjourned inquest if in his opinion there is sufficient cause to do so<sup>12</sup>.

Where a coroner adjourns an inquest<sup>13</sup>, he must send to the registrar of deaths a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars which are required<sup>14</sup> to be registered concerning the death<sup>15</sup>.

Where a coroner does not resume an inquest which he has adjourned<sup>16</sup>, he must<sup>17</sup> send to the registrar of deaths a certificate under his hand stating the result of the relevant criminal proceedings<sup>18</sup>.

Where a coroner resumes an inquest which has been adjourned<sup>19</sup> and for that purpose summons a jury, but not where he resumes without a jury or with the same jury as before the adjournment, he must proceed in all respects as if the inquest had not previously been begun,

and the provisions of the Coroners Act 1988 apply<sup>20</sup> accordingly as if the resumed inquest were a fresh inquest<sup>21</sup>.

Where a coroner resumes an inquest which has been adjourned<sup>22</sup>:

- 191 (A) the finding of the inquest as to the cause of death must not be inconsistent with the outcome of the relevant criminal proceedings;
- 192 (B) the coroner must supply to the registrar of deaths after the termination of the inquest a certificate under his hand stating the result of the relevant criminal proceedings; and
- 193 (C) the provisions whereby the coroner is required to send to the registrar of deaths a death certificate<sup>23</sup> do not apply in relation to that inquest<sup>24</sup>.

A certificate under the hand of a coroner<sup>25</sup> stating the particulars which are required<sup>26</sup> to be registered concerning a death which he furnishes to a registrar of deaths<sup>27</sup> must be furnished within five days from the date on which the inquest<sup>28</sup> is adjourned<sup>29</sup>.

1     Ie under the Coroners Act 1988 s 17(1) (as amended). Where a person is charged before a magistrates' court with: (1) murder, manslaughter or infanticide (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 84 et seq); (2) an offence under the Road Traffic Act 1988 s 1 (as substituted) (causing death by dangerous driving: see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 963) or s 3A (as added) (causing death by careless driving while under the influence of drink or drugs: see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 974); (3) an offence under the Suicide Act 1961 s 2(1) consisting of aiding, abetting, counselling or procuring the suicide of another (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 106); or (4) an offence under the Domestic Violence, Crime and Victims Act 2004 s 5 (causing or allowing the death of a child or vulnerable adult) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 107), the designated officer for the court must inform the coroner who is responsible for holding an inquest into the death of the making of the charge and of the result of the proceedings before that court: Coroners Act 1988 s 17(1) (amended by the Road Traffic Act 1991 s 48, Sch 4 para 41; the Courts Act 2003 s 109(1), Sch 8 para 302(b); and the Domestic Violence, Crime and Victims Act 2004 s 58(1), (2), Sch 10 para 27, Sch 11).

2     Ie an offence under the Road Traffic Act 1988 s 1 (as substituted): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 963.

3     Ie an offence under ibid s 3A (as added): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 974.

4     Ie an offence under the Suicide Act 1961 s 2(1): see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 106.

5     Ie an offence under the Domestic Violence, Crime and Victims Act 2004 s 5: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 107.

6     Coroners Act 1988 s 16(1)(a) (amended by the Road Traffic Act 1991 Sch 4 para 40; the Courts Act 2003 Sch 8 para 302(a); and the Domestic Violence, Crime and Victims Act 2004 Sch 10 para 26, Sch 11). Where a person charged with: (1) murder, manslaughter or infanticide; (2) an offence under the Road Traffic Act 1988 s 1 (as substituted) (see note 2 supra) or s 3A (as added) (see note 3 supra); (3) an offence under the Suicide Act 1961 s 2(1) consisting of aiding, abetting, counselling or procuring the suicide of another (see note 4 supra); or (4) an offence under the Domestic Violence, Crime and Victims Act 2004 s 5 (see note 5 supra), is sent for trial to the Crown Court, the appropriate officer of the Crown Court at the place where the person charged is tried must inform the coroner of the result of the proceedings before that court: Coroners Act 1988 s 17(2) (amended by Road Traffic Act 1991 Sch 4 para 41; the Criminal Justice Act 2003 s 41, Sch 3 para 59(1), (3); and the Domestic Violence, Crime and Victims Act 2004 Sch 10 para 27, Sch 11).

7     Ie in relation to cases sent for trial under the Crime and Disorder Act 1998 ss 51, 51A(3)(d) (as added) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1131-1133).

8     Coroners Act 1988 s 16(1)(b) (amended by the Criminal Justice Act 2003 Sch 3 para 59(1), (2)). The amendment made by the Criminal Justice Act 2003 (which substitutes a reference to being 'sent for trial' instead of a reference to being 'charged before examining justices') is in force only in relation to cases sent for trial under the Crime and Disorder Act 1998 (see note 7 supra). Where the Director of Public Prosecutions has under the Coroners Act 1988 s 16(1)(b) (as amended) requested a coroner to adjourn an inquest, then, whether or not the inquest is adjourned as a result, the Director of Public Prosecutions must: (1) inform the coroner of the result of the proceedings before the magistrates' court in the case of the person charged as mentioned in s



16(1)(b) (as amended); and (2) if that person is sent for trial to the Crown Court, inform the coroner of the result of the proceedings before that court: s 17(3) (amended by the Criminal Justice Act 2003 Sch 3 para 59(1), (3)). As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

9 For these purposes, 'the relevant criminal proceedings' means the proceedings: (1) before a magistrates' court to determine whether the person charged is to be sent to the Crown Court for trial; or (2) before any court to which that person is sent for trial: Coroners Act 1988 s 16(8) (substituted by the Criminal Justice Act 2003 Sch 3 para 59(1), (2)).

10 Coroners Act 1988 s 16(1).

11 Ibid s 16(2).

12 Ibid s 16(3). The decision to be made under s 16(3) is of a highly discretionary character and in no way circumscribed by a need to find exceptional circumstances, only 'sufficient cause': *R v Inner West London Coroner, ex p Dallaglio* [1994] 4 All ER 139, CA; *R (on the application of Southall Black Sisters) v West Yorkshire Coroner* [2002] EWHC 1914 (Admin). A coroner's duty under the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) art 2 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 123) to investigate an unexplained death extends to the exercise of his discretion under the Coroners Act 1988 even where the death occurred before the coming into force of the Human Rights Act 1998: *R (on the application of Hurst) v London Northern District Coroner* [2005] EWCA Civ 890, [2005] 1 WLR 3892, [2005] All ER (D) 316 (Jul). See further PARA 989 ante.

13 Ie in compliance with the Coroners Act 1988 s 16(1) (as amended): see the text to notes 1-10 supra.

14 Ie under the Births and Deaths Registration Act 1953: see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq. Where an inquest into a death is adjourned under the Coroners Act 1988 s 16 (as amended) and the registrar receives from the coroner under s 16(4) (see the text to note 15 infra) a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars required to be registered concerning the death, the registrar must in the prescribed form and manner register the death and the particulars: Births and Deaths Registration Act 1953 s 23(2A) (added by the Coroners Act 1988 s 36(1), Sch 3 para 4(3)).

15 Coroners Act 1988 s 16(4).

16 See note 13 supra.

17 Ie without prejudice to the Coroners Act 1988 s 16(4): see the text to note 15 supra.

18 Ibid s 16(5).

19 See note 13 supra.

20 Ie subject to the Coroners Act 1988 s 16(7): see the text to notes 22-24 infra.

21 Ibid s 16(6).

22 See note 13 supra.

23 Ie the Coroners Act 1988 s 11(7): see PARA 1052 post.

24 Ibid s 16(7).

25 For the meaning of 'coroner' for these purposes see PARA 938 note 1 ante.

26 Ie under the Births and Deaths Registration Act 1953: see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq.

27 Ie under the Coroners Act 1988 s 16(4): see the text to notes 13-15 supra.

28 For the meaning of 'inquest' see PARA 938 note 2 ante.

29 Coroners Rules 1984, SI 1984/552, r 29 (amended by SI 1999/3325).

## UPDATE

**1001-1002 Adjournment of inquest in event of criminal proceedings,  
Adjournment at the request of the chief officer of police**

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

**1001 Adjournment of inquest in event of criminal proceedings**

TEXT AND NOTES 1, 6--1988 Act ss 16(1)(a), 17(1), (2) further amended: Corporate Manslaughter and Corporate Homicide Act 2007 Sch 2 para 1(2)(b), (c).

NOTE 10--See *R (on the application of Pereira) v Inner South London Coroner* [2007] EWHC 1723 (Admin), [2007] 1 WLR 3256, DC.

NOTE 12--*Hurst*, cited, reversed: [2007] UKHL 13, [2007] 2 All ER 1025.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1002. Adjournment at the request of the chief officer of police.

### **1002. Adjournment at the request of the chief officer of police.**

If the chief officer of police<sup>1</sup> requests a coroner<sup>2</sup> to adjourn an inquest<sup>3</sup> on the grounds that a person may be charged with the offence of murder, manslaughter or infanticide of the deceased, or causing the death of the deceased by dangerous driving<sup>4</sup> or by careless driving while under the influence of drink or drugs<sup>5</sup>, or aiding, abetting, counselling or procuring the suicide of the deceased<sup>6</sup>, the coroner must adjourn the inquest for 28 days or for such longer period as he thinks fit<sup>7</sup>. Where a person charged with such an offence is committed for trial to the Crown Court, the coroner who has adjourned an inquest<sup>8</sup> must inform the appropriate officer of the Crown Court at the place where the person charged is to be tried of such adjournment<sup>9</sup>.

At any time before the date fixed for the holding of the adjourned inquest, the chief officer of police may ask the coroner for a further adjournment and the coroner may comply with his request<sup>10</sup>.

1 For the meaning of 'chief officer of police' see PARA 968 note 4 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the meaning of 'inquest' see PARA 938 note 2 ante.

4 Ie an offence under the Road Traffic Act 1988 s 1 (as substituted): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 963.

5 Ie an offence under ibid s 3A (as added): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 974.

6 Ie an offence under the Suicide Act 1961 s 2(1): see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 106.

7 Coroners Rules 1984, SI 1984/552, r 26(1), (3); Interpretation Act 1978 s 17(2)(b).

8 Ie in pursuance of the Coroners Act 1988 ss 16, 17 (both as amended): see PARA 1001 ante.

9 Coroners Rules 1984, SI 1984/552, r 35 (amended by SI 1999/3325).

10 Coroners Rules 1984, SI 1984/552, r 26(2).

### **UPDATE**

#### **1001-1002 Adjournment of inquest in event of criminal proceedings, Adjournment at the request of the chief officer of police**

Certain persons or indorsements mentioned in these paragraphs are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1003. Adjournment at the request of the Director of Public Prosecutions.

**1003. Adjournment at the request of the Director of Public Prosecutions.**

If the Director of Public Prosecutions<sup>1</sup> requests a coroner<sup>2</sup> to adjourn an inquest<sup>3</sup> on the ground that a person may be charged with an offence, whether or not involving the death of a person other than the deceased, committed in circumstances connected with the death of the deceased, not being an offence of murder, manslaughter or infanticide of the deceased, or causing the death of the deceased by dangerous driving or by careless driving while under the influence of drink or drugs, or aiding, abetting, counselling or procuring the suicide of the deceased<sup>4</sup>, the coroner must adjourn the inquest for 28 days or for such longer period as he may think fit<sup>5</sup>.

At any time before the date fixed for the holding of the adjourned inquest, the Director of Public Prosecutions may ask the coroner for a further adjournment and the coroner may comply with his request<sup>6</sup>.

1 As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the meaning of 'inquest' see PARA 938 note 2 ante.

4 Ie not being an offence within the Coroners Rules 1984, SI 1984/552, r 26(3): see PARA 1002 ante.

5 Ibid r 27(1).

6 Ibid r 27(2).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1004. Adjournment in certain other cases.

**1004. Adjournment in certain other cases.**

If during the course of an inquest<sup>1</sup> evidence is given from which it appears to the coroner<sup>2</sup> that the death of the deceased is likely to be due to an offence of murder, manslaughter or infanticide of the deceased, or causing the death of the deceased by dangerous driving or by careless driving while under the influence of drink or drugs, or aiding, abetting, counselling or procuring the suicide of the deceased<sup>3</sup>, and that a person might be charged with such an offence, the coroner, unless he has previously been notified by the Director of Public Prosecutions that adjournment is unnecessary, must adjourn the inquest for 14 days or for such longer period as he may think fit and send to the Director of Public Prosecutions particulars of that evidence<sup>4</sup>.

At any time before the date fixed for the holding of the adjourned inquest, the Director of Public Prosecutions may ask the coroner for a further adjournment and the coroner may comply with his request<sup>5</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 I.e. an offence within the Coroners Rules 1984, SI 1984/552, r 26(3): see PARA 1002 ante.

4 Ibid r 28(1). As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

5 Ibid r 28(2).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1005. Adjournment for the attendance of persons criticised.

**1005. Adjournment for the attendance of persons criticised.**

If the conduct of any person is called in question at an inquest<sup>1</sup> on grounds which the coroner<sup>2</sup> thinks substantial and which relate to any matter to be ascertained at the inquest<sup>3</sup>, and that person is not present at the inquest and has not been duly summoned to attend or otherwise given notice of the holding of the inquest, the inquest must be adjourned to enable him to be present, if he so desires<sup>4</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 As to the matters that may be ascertained see the Coroners Rules 1984, SI 1984/552, r 36; and PARA 1025 post.

4 Ibid r 25.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1006. No adjournment in certain cases.

**1006. No adjournment in certain cases.**

An inquest<sup>1</sup> must not be adjourned<sup>2</sup> solely<sup>3</sup> by reason of the institution of criminal proceedings arising out of the death of the deceased<sup>4</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 le subject to the Coroners Act 1988 ss 16, 17 (both as amended): see PARA 1001 ante.

3 Where an adjournment is not required by reason of the provisions set out in paras 999-1005 ante, the determination of criminal proceedings in a magistrates' court should follow the inquest. This avoids conflict between an inquest verdict of unlawful killing and the determination of the justices: *Re Beresford* (1952) 36 Cr App Rep 1. However, *Re Beresford* supra does not establish an absolute rule of law, and justices are therefore not necessarily obliged to adjourn a summary trial where an inquest has yet to be concluded: *Smith v DPP* [2000] RTR 36. See also *R (on the application of Sylvester) v DPP* [2001] EWHC Admin 442.

4 Coroners Rules 1984, SI 1984/553, r 32 (amended by SI 1999/3325). For the meaning of 'deceased' see PARA 966 note 3 ante. See also PARA 960 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1007. Agricultural accidents.

### **1007. Agricultural accidents.**

Where a coroner holds an inquest on the body of a person whose death may have been caused by an accident occurring in the course of agricultural operations, the coroner must adjourn the inquest unless an inspector or some other person on behalf of the Health and Safety Executive is present to watch the proceedings; and must, at least four days before holding the adjourned inquest, give to an inspector notice of the time and place of holding the adjourned inquest<sup>1</sup>.

If the inquest relates to the death of not more than one person, the coroner is not bound to adjourn the inquest if, not less than 24 hours before it is held, he informed an inspector of the time and place of the holding of the inquest<sup>2</sup>.

Where evidence is given at any such inquest at which an inspector is not present of any neglect as having caused or contributed to the accident, or of any defect in any building, structure, machinery, plant, equipment or appliance appearing to the coroner or jury to require a remedy, the coroner must give to an inspector notice of the neglect or defect<sup>3</sup>.

1 Agriculture (Safety, Health and Welfare Provisions) Act 1956 s 9(1) (amended by virtue of the Health and Safety (Agriculture) (Miscellaneous Repeals and Modifications) Regulations 1976, SI 1976/1247, reg 2(2), Sch 2). As to the Health and Safety Executive see HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 361 et seq.

Before the adjournment the coroner may take evidence to identify the body and may order its interment: Agriculture (Safety, Health and Welfare Provisions) Act 1956 s 9(1) proviso (a).

2 Ibid s 9(1) proviso (b).

3 Ibid s 9(2).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1008. Adjournment where inspector or representative of enforcing authority etc not present.

**1008. Adjournment where inspector or representative of enforcing authority etc not present.**

Where a coroner holds an inquest into the death of a person which may have been caused by an accident or disease notice of which is required to be given to an enforcing authority<sup>1</sup>, the coroner must adjourn the inquest unless an inspector appointed by, or a representative of, the enforcing authority is present to watch the proceedings and must, at least four days before holding the adjourned inquest, give to such inspector or representative notice of the date, hour and place of holding the adjourned inquest<sup>2</sup>.

Where a coroner holds an inquest into the death of a person which may have been caused by an accident or disease notice of which is required to be given to an inspector appointed by an enforcing authority, the coroner must adjourn the inquest unless the inspector or a representative of the inspector is present to watch the proceedings and must, at least four days before holding the adjourned inquest, give to the inspector or representative notice of the date, hour and place of holding the adjourned inquest<sup>3</sup>.

1 For the meaning of 'enforcing authority' see PARA 969 note 8 ante.

2 Coroners Rules 1984, SI 1984/552, r 23(1).

3 Ibid r 23(2).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1009. Coroner's interim certificate of the fact of death.

**1009. Coroner's interim certificate of the fact of death.**

When an inquest<sup>1</sup> has been adjourned for any reason and the requirement to furnish particulars to the registrar of deaths<sup>2</sup> does not apply, the coroner<sup>3</sup> must on application supply to any person who, in the opinion of the coroner, is a properly interested person an interim certificate of the fact of death<sup>4</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 Ie the requirement in the Coroners Act 1988 s 16(4): see PARA 1001 ante.

3 For the meaning of 'coroner' see PARA 938 note 1 ante.

4 Coroners Rules 1984, SI 1984/552, r 30 (amended by SI 1999/3325). For the prescribed form of interim certificate of the fact of death see the Coroners Rules 1984, SI 1984/552, rr 30, 60, Sch 4 Form 14. As to the use of forms see PARA 907 note 5 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1010. Resumption of, or alteration of arrangements for, adjourned inquest.

**1010. Resumption of, or alteration of arrangements for, adjourned inquest.**

If an inquest<sup>1</sup> which has been adjourned<sup>2</sup> is not to be resumed, the coroner<sup>3</sup> must notify the members of the jury, if any, the witnesses, the chief officer of police<sup>4</sup>, any person notified by him of the holding of the inquest<sup>5</sup> and any other person appearing in person or represented at the inquest<sup>6</sup>.

If an inquest which has been so adjourned is to be resumed, the coroner must give reasonable notice of the date, hour and place at which the inquest will be resumed to the members of the jury, if any, the witnesses, the chief officer of police, any person notified by him of the holding of the inquest and any other person appearing in person or represented at the inquest<sup>7</sup>.

Where a coroner has fixed a date, hour and place for the holding of an inquest adjourned for any reason, he may, at any time before the date so fixed, alter the date, hour or place fixed, and must then give reasonable notice of the alteration to the members of the jury, if any, the witnesses, the chief officer of police, any person notified of the holding of the inquest and any other person appearing in person or represented at the inquest<sup>8</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 Ie under the Coroners Act 1988 ss 16, 17, 17A (ss 16, 17 as amended; s 17A as added): see PARA 1001 ante.

3 For the meaning of 'coroner' see PARA 938 note 1 ante.

4 For the meaning of 'chief officer of police' see PARA 968 note 4 ante.

5 Ie notified under the Coroners Rules 1984, SI 1984/552, r 19 or r 24 (see PARA 976 ante).

6 Ibid r 33(1), (4) (r 33(1) amended by SI 1999/3325). For the prescribed form of notice see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 15 (amended by SI 1999/3325). As to the use of forms see PARA 907 note 5 ante.

7 Coroners Rules 1984, SI 1984/552, r 33(2), (4). For the prescribed form of notice see Sch 4 Form 16 (amended by SI 1999/3325).

8 Coroners Rules 1984, SI 1984/552, r 33(3), (4). For the prescribed form of notice see Sch 4 Form 18. In *R v Payn* (1864) 34 LJQB 59, and in *R v Margate Coroner* (1865) 11 LT 707, the coroner in each case, after adjourning the inquest to a stated date to enable the inquisition to be drawn up and signed, did not resume the inquest on that date and instead sent a written notice to the jurors summoning them to attend on a later date; the inquisitions were quashed on the ground that the inquest came to an end when the adjourned inquest was not resumed.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(iv) Adjournment/1011. Recognisances becoming void.

**1011. Recognisances becoming void.**

Where any witness or juror who has been bound over to attend at an adjourned inquest<sup>1</sup>, whether without further notice or conditionally on receiving further notice, is notified by the coroner<sup>2</sup> that his attendance at the adjourned inquest is not required or that the inquest will not be resumed, the recognisance entered into by him is void<sup>3</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 Coroners Rules 1984, SI 1984/552, r 34. As to notice that an inquest will not be resumed see PARA 1010 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1012. Legal aid.

## **(v) Witnesses**

### **1012. Legal aid.**

In general legal aid is not available for representation in proceedings before a coroner<sup>1</sup>, although the Lord Chancellor has power to direct that it should be in particular cases or classes of case<sup>2</sup>, and has done so generally for cases where the death occurred in police or prison custody, or during the course of police arrest, search, pursuit or shooting, where the Legal Services Commission is satisfied that funded representation is necessary to assist the coroner to investigate the case effectively and establish the facts<sup>3</sup>. In cases where the coroner's inquest is in effect the means by which the United Kingdom discharges the procedural obligation under the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>4</sup>, the failure to provide public funding can in appropriate circumstances amount to a violation of the Convention<sup>5</sup>. In such cases, the Secretary of State has power to disapply the financial limits for eligibility and contribution in relation to an application for funding of legal representation at an inquest into the death of a member of the immediate family of the client<sup>6</sup>.

Subject to an applicant's fulfilling the necessary financial criteria, assistance may be available for preliminary advice, as, for example, on his legal position generally, his remedies, the conduct of the inquest and what he may say, or is prohibited from saying, at an inquest<sup>7</sup>.

1 As to legal aid generally see LEGAL AID.

2 See the Access to Justice Act 1999 s 6(8) (as amended); and LEGAL AID vol 65 (2008) PARA 43.

3 See the 2005 Funding Code Guidance Amendments 'A New Focus for Civil Legal Aid', Legal Services Commission, s 27.

4 I.e. the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) art 2: see PARA 989 ante.

5 *R (on the application of Khan) v Secretary of State for Health*[2003] EWCA Civ 1129, [2003] 4 All ER 1239; *R (on the application of Challenger) v Legal Services Commission*[2004] EWHC 925 (Admin), [2004] All ER (D) 322 (Apr).

6 See the Community Legal Service (Financial) Regulations 2000, SI 2000/516, reg 5C (added by SI 2003/2838 and amended by SI 2005/1793).

7 As to such assistance see LEGAL AID vol 65 (2008) PARA 31 et seq.

## **UPDATE**

### **1012 Legal aid**

NOTES 3, 4--Full legal representation is not required in order for a coroner properly to investigate relevant public safety issues, even if such representation may assist him to do so: *R (on the application of Main) v Minister for Legal Aid*[2007] EWCA Civ 1147, [2007] All ER (D) 281 (Nov).

NOTE 6--SI 2000/516 reg 5C further amended: SI 2006/2363, SI 2007/906.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1013. Attendance of witnesses.

### **1013. Attendance of witnesses.**

Since a coroner's inquest is an inquisitorial process in which there are no parties, it is for the coroner to decide which witnesses are to be summoned to attend an inquest to give evidence<sup>1</sup>.

The attendance of witnesses is secured either by a message or by a formal summons<sup>2</sup>. The summons is limited to the administrative area containing the district for which he is coroner<sup>3</sup>. If it becomes necessary to secure the attendance of a witness who is not within the coroner's district, it may be necessary to apply to the High Court or the county court for a witness summons<sup>4</sup>.

Any person whose conduct is likely, in the opinion of the coroner, to be called in question at the inquest must, if not duly summoned to give evidence at the inquest, be given reasonable notice of the date, hour and place at which the inquest will be held<sup>5</sup>.

If the attendance of a person in custody is desired, the governor of the prison should be informed and he will make the necessary arrangements for that person's attendance<sup>6</sup>.

The coroner may in certain circumstances make an order forbidding the reporting of the identity of a child witness<sup>7</sup>.

<sup>1</sup> *McKerr v Armagh Coroner* [1990] 1 All ER 865, [1990] 1 WLR 649, HL. As to legal assistance see PARA 1012 ante.

<sup>2</sup> For the prescribed form of witness summons see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 8; and for the prescribed form of notice that the attendance of a witness will not be required at the holding of an adjourned inquest see Sch 4 Form 17. As to the use of forms see PARA 907 note 5 ante. There is no power to fine a witness for failure to attend unless a written summons has been issued: *Re Dr AS Rayan* (1983) 148 JP 569, DC.

<sup>3</sup> See the Coroners Act 1988 ss 4(5), 4A(8) (as added); and PARAS 909-910 ante. For the meaning of 'administrative area' see PARA 909 note 10 ante.

<sup>4</sup> I.e. a witness summons issued in aid of an inferior court or tribunal: see CPR 34.4; and CIVIL PROCEDURE vol 11 (2009) PARA 1006.

<sup>5</sup> See the Coroners Rules 1984, SI 1984/552, r 24; and PARA 976 ante.

<sup>6</sup> Home Office Circular 68/1955 paras 13, 14.

<sup>7</sup> See the Children and Young Persons Act 1933 s 39 (as amended); and CHILDREN AND YOUNG PERSONS vol 5(4) (2008 Reissue) PARA 1271.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1014. Power to summon medical witnesses.

#### **1014. Power to summon medical witnesses.**

In the case of an inquest into a death, the coroner may summon as a witness:

- 194 (1) any legally qualified medical practitioner<sup>1</sup> appearing to him to have attended at the death of the deceased or during the last illness of the deceased; or
- 195 (2) where it appears to him that no such practitioner so attended the deceased, any legally qualified medical practitioner in actual practice in or near the place where the death occurred,

and any medical witness summoned may be asked to give evidence as to how, in his opinion, the deceased came by his death<sup>2</sup>.

The coroner may, either in his summons for the attendance of a medical witness or at any time between the issuing of that summons and the end of the inquest, direct the medical witness to make a post-mortem examination of the body of the deceased<sup>3</sup>. Where, however, a person states upon oath before the coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person must not be allowed to perform or assist at the post-mortem examination of the deceased<sup>4</sup>.

Where a medical practitioner fails to obey a summons of a coroner, he is liable, unless he shows a good and sufficient cause for not having obeyed the summons, on summary conviction, on the prosecution of the coroner, to a fine<sup>5</sup>.

1 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

2 Coroners Act 1988 s 21(1). As to the fees payable to medical witnesses see PARA 1062 post.

3 Ibid s 21(2). The coroner's power under s 21(2) to direct a post-mortem examination of a body within his district does not vest in him the exclusive right to order a post-mortem examination of the body: *R v Greater London Coroner, ex p Ridley* [1986] 1 All ER 37, sub nom *R v HM Coroner for Greater London (Southern District), ex p Ridley* [1985] 1 WLR 1347 (coroner may not refuse his consent to a request by an interested person, eg the deceased's widow, for a second post-mortem examination of the body unless there are good reasons for such a refusal). For the prescribed form of direction for the making of a post-mortem examination see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 10 (amended by SI 1999/3325). As to the use of forms see PARA 907 note 5 ante.

As from a day to be appointed, it is provided that no direction under the Coroners Act 1988 s 21 (as amended) is to have effect to require a person to make a post-mortem examination if the making of the examination by him would contravene the Human Tissue Act 2004 s 16(1) (not yet in force) (under which a person may make a post-mortem examination only under the authority of a licence under that Act: see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 255): Coroners Act 1988 s 21(4A) (prospectively added by the Human Tissue Act 2004 s 56, Sch 6 para 3(1), (3)). At the date at which this volume states the law, no such day had been appointed.

4 Coroners Act 1988 s 21(3).

5 Ibid s 21(5). The fine must not exceed £1,000: s 21(5) (amended by the Criminal Justice Act 1991 s 17(3), Sch 4 Pt I).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1015. Request to specially qualified person to make post-mortem and special examination.

**1015. Request to specially qualified person to make post-mortem and special examination.**

Without prejudice to the power of a coroner holding an inquest to direct a medical witness whom he may summon<sup>1</sup> to make a post-mortem examination of the body of the deceased, the coroner may, at any time after he has decided to hold an inquest:

- 196 (1) request any legally qualified medical practitioner<sup>2</sup> to make a post-mortem examination of the body or a special examination<sup>3</sup> of the body or both such examinations; or
- 197 (2) request any person whom he considers to possess special qualifications for conducting a special examination of the body to make such an examination<sup>4</sup>.

If any person who has made a post-mortem or special examination in pursuance of such a request is summoned by the coroner as a witness, he may be asked to give evidence as to his opinion upon any matter arising out of the examination, and as to how, in his opinion, the deceased came by his death<sup>5</sup>.

Where a person states upon oath before the coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person:

- 198 (a) is not allowed to perform or assist at any post-mortem or special examination made for the purposes of the inquest into the death; but
- 199 (b) has the right, if he so desires, to be represented at any such post-mortem examination<sup>6</sup>.

A person making a special examination must make provision, so far as possible, for the preservation of the material submitted to him for examination<sup>7</sup>.

Unless authorised by the coroner<sup>8</sup>, the person making a special examination must not supply a copy of his report to any person other than the coroner<sup>9</sup>.

1 le under the Coroners Act 1988 s 21 (as amended): see PARA 1014 ante.

2 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

3 For these purposes, 'special examination', in relation to a body, means a special examination by way of analysis, test or otherwise of such parts or contents of the body or such other substances or things as ought in the opinion of the coroner to be submitted to analyses, tests or other examination with a view to ascertaining how the deceased came by his death: Coroners Act 1988 s 20(4).

4 Ibid s 20(1).

5 Ibid s 20(2).

6 Ibid s 20(3).

7 Coroners Rules 1984, SI 1984/552, r 12(1) (substituted by SI 2005/420). As to the preservation of the material see PARA 971 ante.



- 8 For the meaning of 'coroner' see PARA 938 note 1 ante.
- 9 Coroners Rules 1984, SI 1984/552, r 13.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1016. Request by jury for post-mortem examination.

**1016. Request by jury for post-mortem examination.**

If, in the case of an inquest with a jury<sup>1</sup>, a majority of the jury are of opinion that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or of other witnesses brought before them, they may in writing require the coroner to summon as a witness some other legally qualified medical practitioner<sup>2</sup> named by them, and to direct a post-mortem examination of the deceased to be made by a practitioner so summoned, whether or not such an examination has been previously made<sup>3</sup>. If the coroner fails to comply with such a requisition, he is liable on conviction on indictment to a penalty<sup>4</sup>.

Where a medical practitioner fails to obey a summons of a coroner so issued, he is liable, unless he shows a good and sufficient cause for not having obeyed the summons, on summary conviction, on the prosecution of the coroner or of any two of the jury, to a penalty<sup>5</sup>.

In practice, because of the requirements for summoning juries<sup>6</sup>, the body will usually have been long disposed of before a jury is ever assembled.

1 As to references to an inquest held with a jury see PARA 980 note 1 ante.

2 As to the meaning of 'legally qualified medical practitioner' see PARA 913 note 2 ante.

3 Coroners Act 1988 s 21(4). As from a day to be appointed, it is provided that no direction under s 21 (as amended) is to have effect to require a person to make a post-mortem examination if the making of the examination by him would contravene the Human Tissue Act 2004 s 16(1) (not yet in force) (under which a person may make a post-mortem examination only under the authority of a licence under that Act: see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 255): Coroners Act 1988 s 21(4A) (prospectively added by the Human Tissue Act 2004 s 56, Sch 6 para 3(1), (3)). At the date at which this volume states the law, no such day had been appointed.

4 Coroners Act 1988 s 21(4). The penalty is a term of imprisonment not exceeding two years or a fine, or both: see s 21(4).

5 Ibid s 21(5). The penalty is a fine not exceeding £1,000: s 21(5) (amended by the Criminal Justice Act 1991 s 17(3), Sch 4 Pt I).

6 See PARA 980 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1017. Fining of recalcitrant witnesses.

### **1017. Fining of recalcitrant witnesses.**

Where a person duly summoned to give evidence at an inquest<sup>1</sup> does not, after being openly called three times, appear to the summons, or appears to the summons but refuses without lawful excuse to answer a question put to him, the coroner may impose on that person a fine<sup>2</sup>. The power so conferred on a coroner is in addition to, and not in derogation of, any power which the coroner may possess for compelling any person to appear and give evidence before him in any inquest or other proceeding, or for punishing any person for contempt of court in not so appearing and giving evidence<sup>3</sup>; but a person may not be so fined by the coroner and also be punished under any such other power<sup>4</sup>.

1 There is no power to fine a witness for failure to attend unless a written summons has been issued: *Re Dr AS Rayan* (1983) 148 JP 569, DC.

2 Coroners Act 1988 s 10(2). The fine must not exceed £1,000: s 10(2) (amended by the Criminal Justice Act 1991 s 17(3)(a), Sch 4 Pt I). For the prescribed form of certificate of fine see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 11. As to the use of forms see PARA 907 note 5 ante. As to the collection of such a fine see PARA 987 note 2 ante. As to securing the attendance of persons out of the coroner's jurisdiction see PARA 1013 ante.

3 As to the coroner's power to issue a warrant for the arrest of witnesses failing to appear, and to commit for contempt, see PARAS 1018-1019 post.

4 Coroners Act 1988 s 10(3).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1018. Arrest of witnesses.

**1018. Arrest of witnesses.**

If a person summoned as a witness refuses or neglects to attend, the coroner may issue his warrant to the constables within his district and to his special officer commanding them to apprehend and bring such person into court<sup>1</sup>. Such warrant may be executed only within the administrative area containing the district of the coroner making it<sup>2</sup>. If the failure to attend amounts to a contempt of court<sup>3</sup>, the High Court on a committal application may order the arrest of the witness and his imprisonment for a fixed period timed to end with the inquest hearing at which he is to give his evidence<sup>4</sup>.

1 The power is a common law power and appears to be impliedly recognised in the Coroners Act 1988 s 10(3): see PARA 1017 ante. No form of warrant for arrest is prescribed.

2 See *ibid* ss 4(5), 4A(8) (as added); and PARAS 909-910 ante. There is no provision in law whereby a coroner's warrant may be executed anywhere in England and Wales or for backing a coroner's warrant for the apprehension elsewhere in the British Isles of a person refusing to attend the court such as exists in the case of a justice's warrant of arrest. As to this latter power see the Magistrates' Courts Act 1980 ss 125, 126 (both as amended); and MAGISTRATES vol 29(2) (Reissue) PARA 523.

3 See PARA 1019 post.

4 *Kent Coroner v Terrill* (8 May 2000, unreported).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1019. Committal for contempt.

### **1019. Committal for contempt.**

As a coroner's court is an inferior court of record<sup>1</sup>, the coroner has power at common law to impose a fine or commit for contempt of court<sup>2</sup>. His power is, however, limited in this respect to contempt committed in the face of the court, and does not extend to contempt committed out of court<sup>3</sup>; but, in view of the feelings which could be generated at an inquest, that is a necessary power which enables the coroner to keep order during the proceedings<sup>4</sup>. A threatened contempt may be restrained by injunction<sup>5</sup>.

A person alleged to have committed a contempt in the face of the court must be given an opportunity to present his version of the facts or to say anything by way of defence to the charge of contempt<sup>6</sup>. Late attendance of a person at a court where there is some excuse and no intention to hinder or delay the proceedings cannot constitute a contempt of court<sup>7</sup>.

1 As to the status of the coroner's court see PARA 904 ante.

2 *R v West Yorkshire Coroner, ex p Smith (No 2)* [1985] QB 1096, [1985] 1 All ER 100, DC. As to what constitutes contempt of court see CONTEMPT OF COURT vol 9(1) (Reissue) PARA 402 et seq. As to compelling the attendance of witnesses see PARAS 1017-1018 ante. The maximum period of imprisonment is one month (see the Contempt of Court Act 1981 s 14(1); and CONTEMPT OF COURT vol 9(1) (Reissue) PARA 502); and the fine must not on any one occasion exceed £2,500 (see s 14(2) (as amended); and CONTEMPT OF COURT vol 9(1) (Reissue) PARA 504).

3 Eg by the writing or publication of articles which reflect on the coroner (*Ex p Pater* (1864) 5 B & S 299; *R v Lefroy* (1872) LR 8 QB 134) or which tend to interfere with the proceedings of the inquest (*Bush v Green* [1985] 3 All ER 721, [1985] 1 WLR 1143, CA). Proceedings before a coroner are active for the purposes of the Contempt of Court Act 1981 as soon as the inquest has been opened, even if such opening established only non-contentious matters such as the fact of death: *Peacock v London Weekend Television* (1985) 150 JP 71, CA. The coroner has no power to deal with such alleged contempt personally but must refer the matter to the Attorney General, who has power to institute proceedings before the Divisional Court. If the article has not yet been published, the coroner, or another person with a sufficient interest, may seek an injunction to restrain the commission of what would otherwise be a contempt of court, without the consent of the Attorney General: *Peacock v London Weekend Television Ltd* supra. See CONTEMPT OF COURT vol 9(1) (Reissue) PARA 413. As to the Attorney General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 529.

4 *R v West Yorkshire Coroner, ex p Smith (No 2)* [1985] QB 1096, [1985] 1 All ER 100, DC.

5 See PARA 1027 note 8 post.

6 *Re Dr AS Rayan* (1983) 148 JP 569, DC.

7 *Re Dr AS Rayan* (1983) 148 JP 569, DC, following *Weston v Courts Administrator of the Central Criminal Court* [1977] QB 32, [1976] 2 All ER 875, CA; cf *Kent Coroner v Terrill* (8 May 2000, unreported). The coroner's power to fine for non-attendance of a witness is under the Coroners Act 1988 s 10(2) (as amended) (see PARA 1017 ante) or s 21(5) (as amended) (see PARAS 1014, 1016 ante) since such a failure does not constitute a contempt in the face of the court falling within the residual power in s 10(3) (see PARA 1017 ante): *Re Dr AS Rayan* supra.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1020. Evidence.

## **1020. Evidence.**

A coroner's inquest is not bound by the strict laws of evidence<sup>1</sup>. In practice, however, the laws of evidence are usually observed by coroners. The coroner may disallow evidence on the grounds of expediency<sup>2</sup>; but he should not normally consider evidence in private<sup>3</sup>.

The coroner<sup>4</sup> may admit at an inquest documentary evidence relevant to the purposes of the inquest from any living person which in his opinion is unlikely to be disputed, unless a person who is entitled to examine the witnesses<sup>5</sup> objects to the documentary evidence being admitted<sup>6</sup>. Documentary evidence so objected to may be admitted if in the opinion of the coroner the maker of the document is unable to give oral evidence within a reasonable period<sup>7</sup>.

Before admitting such documentary evidence, the coroner must at the beginning of the inquest announce publicly:

- 200 (1) that the documentary evidence may be admitted;
- 201 (2) the full name of the maker of the document to be admitted in evidence and a brief account of such document;
- 202 (3) that any person who is entitled to examine witnesses<sup>8</sup> may object to the admission of any such documentary evidence; and
- 203 (4) that any person who is entitled to examine witnesses<sup>9</sup> is entitled to see a copy of any such documentary evidence if he so wishes<sup>10</sup>.

If during the course of an inquest it appears that there is available at the inquest documentary evidence which in the opinion of the coroner is relevant to the purposes of the inquest but the maker of the document is not present and in the opinion of the coroner the content of the documentary evidence is unlikely to be disputed, the coroner must at the earliest opportunity during the course of the inquest comply with the above provisions<sup>11</sup>.

A coroner may admit as evidence at an inquest any document made by a deceased person if he is of the opinion that the contents of the document are relevant to the purposes of the inquest<sup>12</sup>.

Any documentary evidence admitted under the above provisions must, unless the coroner otherwise directs, be read aloud at the inquest<sup>13</sup>.

Notwithstanding the above provisions<sup>14</sup>, at the resumption of an inquest adjourned in the event of a judicial inquiry<sup>15</sup>, the coroner may admit documentary evidence relevant to the purposes of the inquest and containing the findings of the public inquiry<sup>16</sup>. Before admitting such documentary evidence, the coroner must at the beginning of the resumed inquest announce publicly:

- 204 (a) that the findings of the public inquiry may be admitted;
- 205 (b) the title, date of publication and a brief account of those findings; and
- 206 (c) that any person who, in the opinion of the coroner, is entitled to examine the witnesses<sup>17</sup> is entitled to see a copy of any such documentary evidence if he so wishes<sup>18</sup>.

Any documentary evidence so admitted must, unless the coroner otherwise directs, be read aloud at the inquest<sup>19</sup>.

All exhibits produced in evidence at an inquest must be marked with consecutive numbers, and each number must be preceded by the letter 'C'<sup>20</sup>.

The coroner must take notes of the evidence at every inquest<sup>21</sup>.

1 Per Wills J in his charge to the Grand Jury, Times, 18 March 1890; *R v Divine, ex p Walton* [1930] 2 KB 29 at 36. As to the laws of evidence see CIVIL PROCEDURE vol 11 (2009) PARA 749 et seq.

2 *R v HM Coroner for West Yorkshire (Eastern District), ex p Clements* (1993) 158 JP 17, DC.

3 See *R v HM Coroner for Inner North London, ex p Cohen* (1993) 158 JP 644, DC (where evidence was considered by the coroner in private and was not in the public domain). As to the coroner's power to exclude the public from an inquest where he considers that it would be in the interest of national security to do so see PARA 990 ante.

4 For the meaning of 'coroner' for these purposes see PARA 938 note 1 ante.

5 Ie a person who, in the opinion of the coroner, is within the Coroners Rules 1984, SI 1984/552, r 20(2) (as amended): see PARA 1023 heads (1)-(8) post.

6 Ibid r 37(1). As to the admissibility of documents where they could be supported by oral evidence see *R v HM Coroner for Lincolnshire, ex p Hay* (1999) 163 JP 666, DC.

As to the admission of evidence of the deceased's criminal convictions where the truthfulness of a police officer's evidence is challenged see *R v Southwark Coroner, ex p Fields* (1998) 162 JP 411. Where there is evidence that a state agent may be guilty of murder or manslaughter, evidence of the deceased's previous convictions should not be given to the jury, save in exceptional circumstances, such as where the agent has been aware that the deceased had convictions for using firearms to resist arrest: *R (on the application of Stanley) v Inner North London Coroner* [2003] EWHC 1180 (Admin), [2003] All ER (D) 351 (Apr).

7 Coroners Rules 1984, SI 1984/552, r 37(2).

8 See note 5 supra.

9 See note 5 supra.

10 Coroners Rules 1984, SI 1984/552, r 37(3). As to the importance of observing this rule see *Re Calvi (Roberto)* (1983) Times, 2 April, DC; *R v West Berkshire Coroner, ex p Thomas* (1991) 155 JP 681. See also *R (on the application of Bentley) v HM Coroner for the District of Avon* [2001] EWHC 170 (Admin), [2001] All ER (D) 37 (Mar) (advance disclosure of evidence may be required in the interests of fairness).

11 Coroners Rules 1984, SI 1984/552, r 37(4). The coroner must comply with r 37(3): see the text to notes 8-10 supra.

12 Ibid r 37(5). A coroner may decide not to, eg because the maker is not available to be cross-examined: *R v Exeter and East Devon Coroner, ex p Palmer* (10 December 1997, unreported).

13 Coroners Rules 1984, SI 1984/552, r 37(6).

14 Ie ibid r 37: see the text and notes 1-13 supra.

15 Ie pursuant to the Coroners Act 1988 s 17A (as added): see PARA 1000 ante.

16 Coroners Rules 1984, SI 1984/552, r 37A(1) (r 37A added by SI 1999/3325).

17 See note 5 supra.

18 Coroners Rules 1984, SI 1984/552, r 37A(2) (as added: see note 16 supra).

19 Ibid r 37A(3) (as added: see note 16 supra).

20 Ibid r 38.

21 Ibid r 39. The requirement to take notes applies even where a coroner sits without a jury and is simply to provide a record of the proceedings; the method used to take notes is immaterial, and the coroner may take notes himself, or direct another person to do so on his behalf, or he may arrange for a tape-recording to be made: *R v South London Coroner, ex p Thompson* (1982) 126 Sol Jo 625, DC.

## **UPDATE**

### **1020 Evidence**

NOTE 7--Disputed documentary evidence cannot be admitted to an inquest if the maker of the document is able to attend the inquest but is unwilling, and cannot be compelled, to do so: *R (on the application of Paul) v Inner West London Assistant Deputy Coroner* [2007] EWCA Civ 1259, [2008] 1 All ER 981.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1021. Incriminating evidence.

**1021. Incriminating evidence.**

No witness at an inquest is obliged to answer any question tending to incriminate himself<sup>1</sup>. Where it appears to the coroner that a witness has been asked such a question, the coroner must inform the witness of his right to refuse to answer<sup>2</sup>. This does not, however, entitle a witness to refuse to enter the witness box on the ground that he may be asked such questions. The objection may be considered in relation to a particular question only<sup>3</sup>. If the witness chooses to answer the question, he waives the privilege<sup>4</sup>.

1 Coroners Rules 1984, SI 1984/552, r 22(1).

2 Ibid r 22(2).

3 See *R v HM Coroner for Derby and South Derbyshire, ex p Hart* (2000) 164 JP 429 (during an inquest, questions must be put to a witness and each must be ruled on by the coroner under the Coroners Rules 1984, SI 1984/552, r 22).

4 *R v HM Coroner for Lincolnshire, ex p Hay* [2000] Lloyd's Rep Med 264.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1022. Competency, compellability and privilege of witnesses.

**1022. Competency, compellability and privilege of witnesses.**

The statutory provisions and common law rules as to the competency, compellability and privilege of witnesses<sup>1</sup> are in practice followed by coroners.

<sup>1</sup> See CIVIL PROCEDURE vol 11 (2009) PARA 966 et seq.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1023. Entitlement to examine witnesses.

### **1023. Entitlement to examine witnesses.**

Without prejudice to any enactment with regard to the examination of witnesses at an inquest<sup>1</sup>, any person who satisfies the coroner<sup>2</sup> that he is:

- 207 (1) a parent, child, spouse, civil partner, partner or any personal representative of the deceased<sup>3</sup>;
- 208 (2) any beneficiary under a policy of insurance issued on the life of the deceased;
- 209 (3) the insurer who issued such a policy of insurance;
- 210 (4) any person whose act or omission or that of his agent or servant may in the opinion of the coroner have caused, or contributed to, the death of the deceased;
- 211 (5) any person appointed by a trade union to which the deceased at the time of his death belonged, if the death of the deceased may have been caused by an injury received in the course of his employment or by an industrial disease<sup>4</sup>;
- 212 (6) an inspector appointed by, or a representative of, an enforcing authority<sup>5</sup>, or any person appointed by a government department to attend the inquest;
- 213 (7) the chief officer of police<sup>6</sup>; or
- 214 (8) any other person who, in the opinion of the coroner, is a properly interested person<sup>7</sup>,

is entitled to examine any witness at an inquest either in person or by an authorised advocate<sup>8</sup>; but the chief officer of police, unless interested otherwise than in that capacity, is only entitled to examine a witness by such an advocate; and the coroner must disallow any question which in his opinion is not relevant or is otherwise not a proper question<sup>9</sup>.

An officer appointed by the Secretary of State<sup>10</sup> for the purpose is at liberty at an inquest into a death occurring as the result of an accident within Greater London or the City of London<sup>11</sup> to examine any witness, subject nevertheless to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question<sup>12</sup>.

In an inquest held as a result of an accident in which an untraced motor driver was involved, the Motor Insurers' Bureau should be treated as an interested person and notified of the time and place of the inquest<sup>13</sup>.

An assessor may examine witnesses who give technical advice, provided that it is done under the control of the coroner and is restricted to matters within the assessor's special experience<sup>14</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante. As to the examination of witnesses by the coroner see the Coroners Act 1988 s 11(2); and PARA 1024 post.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the meaning of 'deceased' see PARA 966 note 3 ante.

4 For these purposes, 'industrial disease' means a disease prescribed under the Social Security Contributions and Benefits Act 1992 s 108 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 151); Coroners Rules 1984, SI 1984/552, r 2(1); Interpretation Act 1978 s 17(2)(a).

5 For the meaning of 'enforcing authority' see PARA 969 note 8 ante.

6 For the meaning of 'chief officer of police' see PARA 968 note 4 ante.

7 The word 'interested' is not to be given a narrow, technical meaning; nor is it confined to a proprietary right or a financial interest in the deceased's estate; and the word 'properly' means that the interest must be reasonable and substantial: *R v HM Coroner for the Southern District of Greater London, ex p Driscoll* (1993) 159 JP 45, DC (sisters of the deceased were to be considered 'properly interested persons'). See also *R v HM Coroner for Portsmouth, ex p Keane* (1989) 153 JP 658, DC.

8 Coroners Rules 1984, SI 1984/552, r 20(1), (2) (r 20(1) amended by SI 1999/3325; and the Coroners Rules 1984, SI 1984/552, r 20(2) amended by SI 2005/420; SI 2005/2114). As to authorised advocates see the Courts and Legal Services Act 1990 s 119(1); and LEGAL PROFESSIONS vol 65 (2008) PARA 497 (definition applied by the Coroners Rules 1984, SI 1984/552, r 20(1) (as so amended)).

'It is quite true that the coroner must allow interested parties to examine a witness called by the coroner. But that must be for the purpose of assisting in establishing the matters which the inquest is directed to determine. It is not intended by [the Coroners Rules 1984, SI 1984/552, r 20] to widen the coroner's inquest into adversarial fields of conflict': *R v HM Coroner at Hammersmith, ex p Peach (Nos 1 and 2)* [1980] QB 211 at 220, [1980] 2 WLR 496 at 504 per Griffiths J.

9 Coroners Rules 1984, SI 1984/552, r 20(1) provisos (a), (b) (r 20(1) proviso (a) amended by SI 1999/3325).

10 As to the Secretary of State see PARA 908 note 2 ante.

11 Ie an inquest held pursuant to the Coroners Act 1988 s 18 (as amended): see PARA 977 ante.

12 Ibid s 18(2).

13 Home Office Circular 68/1955 paras 10-12. As to the Motor Insurers Bureau see INSURANCE vol 25 (2003 Reissue) PARA 757 et seq.

14 See PARA 994 ante.

## UPDATE

### 1023 Entitlement to examine witnesses

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(v) Witnesses/1024. Examination of witnesses.

#### **1024. Examination of witnesses.**

The coroner must, at the first sitting of the inquest, examine on oath concerning the death all persons who wish to tender evidence as to the facts of the death and all persons having knowledge of those facts whom he considers it expedient to examine<sup>1</sup>. Notwithstanding this statutory requirement that the coroner must take evidence on oath, a quashing order will not be granted on an application for judicial review to bring up and quash an inquisition on the ground that evidence not on oath is received, unless it clearly appears that actual mischief has occurred from the reception of such evidence<sup>2</sup>.

Unless the coroner otherwise determines, a witness at an inquest must be examined first by the coroner and, if the witness is represented at the inquest, lastly by his representative<sup>3</sup>. If there are several persons entitled to examine witnesses, it would be for the coroner, after consultation with the persons concerned, to decide on the order of cross-examination.

1 Coroners Act 1988 s 11(2). The evidence of a child under 14 years of age must in criminal proceedings be given unsworn: see the Youth Justice and Criminal Evidence Act 1999 s 55; and CHILDREN AND YOUNG PERSONS vol 5(4) (2008 Reissue) PARA 1277. It is doubtful, however, whether s 55 applies to inquests since it is uncertain whether an inquest can strictly be regarded as proceedings against any person for an offence.

For the prescribed form of oath see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 9. As to the use of forms see PARA 907 note 5 ante. See also PARA 993 note 2 ante.

2 *R v Ingham* (1864) 5 B & S 257; *R v Staffordshire Coroner* (1864) 10 LT 650; *R v Divine, ex p Walton* [1930] 2 KB 29. As to quashing orders see JUDICIAL REVIEW vol 61 (2010) PARA 693 et seq.

3 Coroners Rules 1984, SI 1984/552, r 21. As to the refusal of the filing of an inquisition under the former practice where the coroner refused to allow counsel for the deceased to examine or cross-examine witnesses see *Barclees Case* (1658) 2 Sid 90 at 101.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vi) Procedure/1025. Scope of inquest.

## **(vi) Procedure**

### **1025. Scope of inquest.**

The proceedings and evidence at an inquest<sup>1</sup> must be directed solely to ascertaining:

- 215 (1) who the deceased<sup>2</sup> was;
- 216 (2) how<sup>3</sup>, when and where the deceased came by his death; and
- 217 (3) the particulars required by the Births and Deaths Registration Act 1953 to be registered concerning his death<sup>4</sup>.

Neither the coroner<sup>5</sup> nor the jury may express any opinion on any matter outside the scope of the inquest<sup>6</sup>.

At a coroner's inquest into the death of a person who came by his death by murder, manslaughter or infanticide, the purpose of the proceedings does not include the finding of any person guilty of the murder, manslaughter or infanticide<sup>7</sup>.

The scope of an inquest is not enlarged merely because it is held with a jury<sup>8</sup> nor because the coroner may in certain circumstances<sup>9</sup> report the matters found at the inquest to a person or authority who may have power to take action to prevent a recurring fatality<sup>10</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'deceased' see PARA 966 note 3 ante.

3 As to the meaning of 'how' see *R (on the application of Middleton) v West Somerset Coroner*[2004] UKHL 10 at para [35], [2004] 2 AC 182 at para [35], [2004] 2 All ER 465 at para [35] per Lord Bingham of Cornhill; *R (on the application of Sacker) v West Yorkshire Coroner*[2004] UKHL 11, [2004] 2 All ER 487, [2004] 1 WLR 796; and PARA 989 ante.

4 Coroners Rules 1984, SI 1984/552, r 36(1). See also PARA 988 ante. As to the particulars required to be registered concerning the death see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq. It is for the individual coroner to recognise and resolve the tension between the Coroners Act 1988 s 8(3) (see PARA 979 ante) and s 11(5)(b) (see PARA 1046 post) and the Coroners Rules 1984, SI 1984/552, r 36. The inquiry is bound to stretch more widely than strictly required for the purposes of a verdict and the question of how much more widely is pre-eminently a matter for the coroner whose rulings on the matter will only exceptionally be susceptible to judicial review: *R v Inner West London Coroner, ex p Dallaglio*[1994] 4 All ER 139, CA. As to judicial review see PARAS 1074-1075 post.

5 For the meaning of 'coroner' see PARA 938 note 1 ante.

6 See the Coroners Rules 1984, SI 1984/552, r 36(2). For a case where a coroner invited a jury to make recommendations contrary to the prohibition in r 36(2) see *R v Shrewsbury Coroner's Court, ex p British Parachute Association*(1987) 152 JP 123, DC. See also PARA 989 ante.

7 Coroners Act 1988 s 11(6).

8 *Re Neal* (1995) 37 BMLR 164, DC.

9 See PARA 1049 post.

10 *Re Kelly*(1996) 161 JP 417, DC.

## **UPDATE**

## 1025 Scope of inquest

NOTE 3--As to the power of the coroner to put questions to the jury as to how death occurred see *R (on the application of D) v Inner South London Assistant Deputy Coroner*[2008] All ER (D) 139 (Dec). See also *R (on the application of Pounder) v HM Coroner for the North and South Districts of Durham and Darlington*[2009] EWHC 76 (Admin), [2009] 3 All ER 150 (need for judge to make ruling as lawfulness of use of force by staff at secure training centre). A jury should not be required to express an opinion on every conceivable cause of death, however improbable: *R (on the application of Lewis) v Mid and North Division of Shropshire Coroner*[2009] EWCA Civ 1403, (2009) 174 JP 49.

NOTE 6--Comments made in a judgment accompanying the verdict that do not relate to how the deceased died may be struck out: *R (on the application of Farah) v Southampton and New Forest District of Hampshire Coroner*[2009] EWHC 1605 (Admin), (2009) 173 JP 457.

TEXT AND NOTE 7--1988 Act s 11(6) amended: Corporate Manslaughter and Corporate Homicide Act 2007 Sch 2 para 1(2)(a).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vi) Procedure/1026. Speeches and summing up.

### **1026. Speeches and summing up.**

No person is allowed to address the coroner<sup>1</sup> or the jury as to the facts<sup>2</sup>.

Where the coroner sits with a jury, he must sum up the evidence to the jury and direct them as to the law before they consider their verdict<sup>3</sup>. When directing the jury as to the standard of proof required, a coroner ought to direct the jury that they have to be satisfied beyond reasonable doubt if they wish to bring in a verdict of unlawful killing or of suicide, and that for other verdicts, except an open verdict, they have to be satisfied on the balance of probabilities<sup>4</sup>.

He must also draw the attention of the jury to the provisions relating to the restriction on the expression of an opinion by the coroner or the jury<sup>5</sup> and the framing<sup>6</sup> of the verdict<sup>7</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 Coroners Rules 1984, SI 1984/552, r 40.

3 Ibid r 41. When leaving verdicts to the jury, the coroner has a discretion to leave only those verdicts which he feels reflect the thrust of the evidence as a whole: *R v Inner London South District Coroner, ex p Douglas-Williams* [1999] 1 All ER 344, CA. See also *R v HM Coroner for Derby and South Derbyshire, ex p Hart* (2000) 164 JP 429 (coroner had correctly decided, on the evidence, to leave a verdict of unlawful killing for a jury to consider); *R (on the application of Sharman) v Inner North London Coroner* [2005] EWHC 857 (Admin), [2005] All ER (D) 163 (May).

4 *R v West London Coroner, ex p Gray* [1988] QB 467, [1987] 2 All ER 129, DC.

5 Ie the Coroners Rules 1984, SI 1984/552, r 36(2): see PARA 1025 ante.

6 Ie ibid r 42: see PARA 1028 post.

7 Ibid r 41.

### **UPDATE**

### **1026 Speeches and summing up**

NOTE 3--See *R (on the application of Cash) v County of Northamptonshire Coroner* [2007] EWHC 1354 (Admin), [2007] All ER (D) 71 (Jun) (coroner erred in deciding not to leave unlawful killing as possible verdict for jury).

NOTE 4--The coroner should direct the jury that a verdict of unlawful killing is only available if they are satisfied that insanity, properly raised on the evidence, is disproved to the criminal standard: *R (on the application of O'Connor) v HM Coroner for the District of Avon* [2009] EWHC 854 (Admin), [2009] 4 All ER 1020, DC.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vi) Procedure/1027. Publication of evidence.

### **1027. Publication of evidence.**

A fair and accurate report of proceedings in public before a court in the United Kingdom<sup>1</sup>, if published contemporaneously with proceedings, is absolutely privileged<sup>2</sup>. A report of proceedings which by an order of the court, or as a consequence of any statutory provision, is required to be postponed is to be treated as published contemporaneously if it is published as soon as practicable after publication is permitted<sup>3</sup>. For these purposes, 'court' includes any tribunal exercising the judicial power of the state and will thus include a coroner's court<sup>4</sup>. No privilege attaches to a report, however fair and accurate, of judicial proceedings properly heard in camera<sup>5</sup>.

Comments on inquests published in newspapers may in certain circumstances amount to contempt of court punishable by the High Court<sup>6</sup>, or criminal proceedings may be taken in respect of those comments by way of indictment<sup>7</sup>. A coroner or a properly interested person may seek an injunction to restrain a threatened publication which might interfere with the proceedings at an inquest<sup>8</sup>.

1 For the meaning of 'United Kingdom' see PARA 952 note 2 ante.

2 See the Defamation Act 1996 s 14(1), (3)(a); and LIBEL AND SLANDER vol 28 (Reissue) PARA 100.

3 See *ibid* s 14(2); and LIBEL AND SLANDER vol 28 (Reissue) PARA 100.

4 See *ibid* s 14(3); and LIBEL AND SLANDER vol 28 (Reissue) PARA 100. See also *Lynam v Gowing* (1880) 6 LR Ir 259; *Garrett v Ferrand* (1827) 6 B & C 611; *Thomas v Churton* (1862) 2 B & S 475.

5 *Scott v Scott* [1913] AC 417 at 452, HL. As to the power of a coroner to hold an inquest in camera see PARA 990 ante.

6 See CONTEMPT OF COURT vol 9(1) (Reissue) PARA 421 et seq. As to contempt of inferior courts see CONTEMPT OF COURT vol 9(1) (Reissue) PARA 454.

7 *R v Tibbits* [1902] 1 KB 77, CCR (obstructing or perverting the due course of justice); *R v Fleet* (1818) 1 B & Ald 379.

8 *Peacock v London Weekend Television* (1985) 150 JP 71, CA; *Turnbull v British Broadcasting Corp*n (30 June 1992, unreported), CA.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/A. IN GENERAL/1028. Requirement to return a verdict and certify it.

## **(vii) Verdict**

### **A. IN GENERAL**

#### **1028. Requirement to return a verdict and certify it.**

In the case of an inquest held with a jury<sup>1</sup>, the jury must, after hearing the evidence:

- 218 (1) give its verdict<sup>2</sup> and certify it by an inquisition<sup>3</sup>; and
- 219 (2) inquire of and find the particulars for the time being required by the Births and Deaths Registration Act 1953 to be registered concerning the death<sup>4</sup>.

In the case of an inquest held with a jury, the coroner is bound to accept the verdict of the jury, however perverse<sup>5</sup>, although he may further direct and charge them as to the law and as to the nature of the evidence given by the witnesses.

The verdict of the jury, when found, is formally recorded in the inquisition; but no verdict may be framed in such a way as to appear to determine any question of criminal liability on the part of a named person or civil liability<sup>6</sup>. There can, however, be no objection to a verdict which incorporates a brief, neutral, factual statement<sup>7</sup>; but such a verdict must be factual, expressing no judgment or opinion, and it is not the jury's function to prepare detailed factual statements<sup>8</sup>.

In the case of an inquest held without a jury<sup>9</sup>, the coroner must, after hearing the evidence:

- 220 (a) give his verdict and certify it by an inquisition; and
- 221 (b) inquire of and find the particulars for the time being required by the Births and Deaths Registration Act 1953 to be registered concerning the death<sup>10</sup>.

1 As to references to an inquest held with a jury see PARA 980 note 1 ante. As to the holding of inquests with a jury see PARA 979 et seq ante.

2 The coroner must communicate with the jury only in open court: *R v Wood, ex p Anderson*[1928] 1 KB 302. As to the proposals to reform the form of verdict see PARA 902 ante.

3 As to the inquisition see PARA 1045 et seq post.

4 Coroners Act 1988 s 11(3). As to the particulars required to be registered concerning the death see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 561 et seq.

5 *Smith's Case* (1696) Comb 386.

6 Coroners Rules 1984, SI 1984/552, r 42. The coroner in his summing up must draw the attention of the jury to r 42: see PARA 1026 ante.

Rule 42 treats criminal and civil liability differently. Whereas a verdict must not be framed so as to appear to determine any question of criminal liability on the part of a named person, thereby legitimating a verdict of unlawful killing provided that no one is named, the prohibition on returning a verdict so as to appear to determine any question of civil liability is unqualified, applying whether anyone is named or not. This prohibition is fortified by considerations of fairness. The law in England and Wales accords an accused or a person alleged to have committed a civil wrong certain safeguards as essential to the fairness of the proceedings, among them a clear statement in writing of the alleged wrongdoing, a right to call any relevant and admissible evidence and a right to address factual submissions to the tribunal of fact. These rights are not granted, and the last is expressly denied, to a person whose conduct may be impugned by evidence given at an inquest. It may be

accepted that, in a case of conflict, the statutory duty to ascertain how the deceased came by his death must prevail over the prohibition in r 42; but the scope for conflict is small. Plainly the coroner and the jury may explore facts bearing on criminal and civil liability; but the verdict may not appear to determine any question of criminal liability on the part of a named person nor any question of civil liability. See *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 24, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 989-990, CA, per Sir Thomas Bingham MR.

7 Eg 'the deceased was drowned when his sailing dinghy capsized in heavy seas', 'the deceased was killed when his car was run down by an express train on a level-crossing' or 'the deceased died from crush injuries sustained when gates were opened at Hillsborough Stadium'.

8 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson*[1995] QB 1 at 24, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson*[1994] 3 All ER 972 at 990, CA, per Sir Thomas Bingham MR.

9 As to references to an inquest held without a jury see PARA 978 note 2 ante. As to the holding of inquests without a jury see PARA 978 ante.

10 Coroners Act 1988 s 11(4).

## UPDATE

### 1028 Requirement to return a verdict and certify it

NOTE 7--A short-form verdict is acceptable even where the right to an effective investigation into the death pursuant to the European Convention on Human Rights art 2 applies, so long as the findings on the events which led up to the death can be discerned from it: *R (on the application of P) v District of Avon Coroner*[2009] All ER (D) 56 (Mar).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/A. IN GENERAL/1029. Deliberations of the jury; failure to agree.

### **1029. Deliberations of the jury; failure to agree.**

The jury should make its deliberations in private; and it must be afforded a reasonable time to reach its verdict<sup>1</sup>. Questions by the jury as to law should normally be dealt with orally in open court and in the presence of counsel. The practice of answering questions in writing should be resorted to sparingly but, if the coroner wishes to answer the jury's questions in writing, he should do so with circumspection, consulting counsel beforehand and showing them the note before it goes into the jury room<sup>2</sup>.

Where, in the case of an inquest held with a jury<sup>3</sup>, the jury fails to agree on a verdict, then, if the minority consists of not more than two, the coroner may accept the verdict of the majority, and the majority must, in that case, certify the verdict<sup>4</sup> on the inquisition<sup>5</sup>. In any other case of disagreement, the coroner may discharge the jury and issue a warrant for summoning another jury, and, in that case, the inquest must proceed in all respects as if the proceedings which terminated in the disagreement had not taken place<sup>6</sup>.

1 As to what is a reasonable time see *Re Inquest into the death of Roberto Calvi deceased* (1983) Times, 2 April, DC (inquest commenced at 10 am; the jury retired at 8.20 pm, and reached a majority verdict at 10 pm; held to be too late an hour). So far as the time for sending out a jury is concerned, each case depends on its own facts: *R v HM Coroner for West Yorkshire (Eastern District), ex p Clements* (1993) 158 JP 17, DC. As to putting pressure on a jury see *Clayton v South Yorkshire (East District) Coroner* [2005] EWHC 1196 (Admin), [2005] All ER (D) 108 (Jun) (allegation that coroner's officer told jury they must reach verdict by 5 pm which, if true, would have justified quashing the verdict; not made out on the evidence).

2 *R v West London Coroner, ex p Gray* [1988] QB 467, [1987] 2 All ER 129, DC.

3 As to references to an inquest held with a jury see PARA 980 note 1 ante.

4 I.e. under the Coroners Act 1988 s 11(3): see PARA 1028 ante.

5 Ibid s 12(1), (2). After verdict the court will presume that the inquisition was found by the requisite number of members of the jury: *Lambert v Taylor* (1824) 4 B & C 138 at 151.

6 Coroners Act 1988 s 12(1), (3).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1030. In general.

## **B. FORM OF VERDICT**

### **1030. In general.**

The conclusion of the jury or the coroner as to the death<sup>1</sup> is colloquially called the verdict<sup>2</sup>. The notes to the prescribed form of inquisition suggest the forms of conclusions which should be adopted<sup>3</sup> and which fall into the following four categories:

- 222 (1) deaths from natural causes<sup>4</sup>, industrial diseases<sup>5</sup>, dependency on drugs or non-dependent abuse of drugs<sup>6</sup>, want of attention at birth<sup>7</sup> and, where appropriate, lack of care or self-neglect<sup>8</sup>;
- 223 (2) suicide<sup>9</sup>, deaths from an attempted or self-induced abortion<sup>10</sup>, accident or misadventure<sup>11</sup>, execution of sentence of death<sup>12</sup>, lawful killing<sup>13</sup> and an open verdict<sup>14</sup>;
- 224 (3) deaths as a result of murder, manslaughter or infanticide<sup>15</sup>;
- 225 (4) still-births<sup>16</sup>.

The choice of conclusions is not, however, restricted to these forms and hence, where he sits alone and delivers the verdict, a coroner often gives brief reasons for his coming to the conclusion<sup>17</sup>.

When recording the verdict of a jury, the coroner is required to eliminate irrelevant matter and record only what his good sense and experience lead him to conclude is the jury's formal verdict, being one which the jury is entitled in law to find<sup>18</sup>.

1 For the prescribed form of inquisition see the Coroners Rules 1984, SI 1984, SI 1984/552, r 60, Sch 4 Form 22 (as amended); and PARA 1046 post. As to the use of forms see PARA 907 note 5 ante.

2 The term 'verdict' is used in the Coroners Act 1988 (see s 11(3), (4); and PARA 1028 ante) and in the Coroners Rules 1984, SI 1984/552 (see rr 41, 42; and PARAS 1026, 1028 ante) to mean the whole of the information in the inquisition. As to the proposals to reform the form of verdict see PARA 902 ante.

3 See *ibid* Sch 4 Form 22 note (4)(a)-(d) (as amended); and PARA 1031 et seq post. A coroner is not bound to record a verdict in any particular form: see *R v HM Coroner for South Glamorgan, ex p BP Chemicals Ltd* (1987) 151 JP 799, DC; *R v Inner South London Coroner, ex p Kendall* [1989] 1 All ER 72, [1988] 1 WLR 1186, DC. As to the proposals to reform the forms of conclusions see PARA 902 ante.

4 See PARA 1031 post.

5 See PARA 1032 post.

6 See PARA 1033 post.

7 See PARA 1034 post.

8 See PARA 1035 post.

9 See PARA 1036 post.

10 See PARA 1037 post.

11 See PARA 1038 post.

12 See PARA 1040 post.

13 See PARA 1041 post.

14 See PARA 1042 post.

15 See PARA 1043 post.

16 See PARA 1044 post.

17 See, however, the Coroners Rules 1984, SI 1984/552, r 36; and PARAS 988, 1025 ante.

18 *R v West London Coroner, ex p Gray* [1988] QB 467, [1987] 2 All ER 129, DC. In doing so, the coroner is required to include any words spoken by the foreman of the jury which are an essential part of the verdict: *R v West London Coroner, ex p Gray* supra.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1031. Natural causes.

### **1031. Natural causes.**

Although, where a coroner regards the cause of a death as natural<sup>1</sup>, he is not required to hold an inquest, there are occasions when, at the conclusion of the post-mortem examination, it is not possible for the pathologist to give a cause of death. Often the reason is that a special examination<sup>2</sup> is needed to carry out, for example, toxicological tests. The coroner will then open an inquest, issue the necessary burial order or cremation certificate, if he has not already done so, and adjourn the inquest until a date when the results of the special examination will be known. On receipt of those results, the coroner will resume the adjourned inquest. Should there be no evidence to indicate that the cause of death is unnatural, the coroner may return the conclusion of natural causes<sup>3</sup>; but, where the cause of death remains unknown, an open verdict<sup>4</sup> is appropriate. Where medical treatment does no more than fail to prevent death from a potentially fatal medical condition of natural cause, the appropriate conclusion is natural causes<sup>5</sup>.

Where the deceased died from natural causes, it is suggested that the form to be adopted is 'CD died from natural causes'<sup>6</sup>. Where appropriate, the words 'and the cause of death was aggravated by lack of care/self-neglect' may be added<sup>7</sup>, provided that nobody is identified in the verdict as being responsible for it<sup>8</sup>.

1 See the Coroners Act 1988 s 8(1)(a); and PARA 939 head (1) ante.

2 As to special examinations see PARA 1015 ante. A special examination may be held only after a coroner has decided to hold an inquest: see *ibid* s 20(1); and PARA 1015 ante.

3 See eg *R v HM Coroner for Birmingham and Solihull, ex p Cotton* (1995) 160 JP 123, DC.

4 As to open verdicts see PARA 1042 post.

5 *R v HM Coroner for Birmingham and Solihull, ex p Benton* [1997] 8 Med LR 362 at 366. Cf para 1038 post.

6 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(a).

7 *Ibid* Sch 4 Form 22 note (4). As to lack of care and self-neglect see PARA 1035 post.

8 *R v HM Coroner for Inner North London, ex p Linnane (No 2)* (1990) 155 JP 343, DC.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1032. Industrial disease.

**1032. Industrial disease.**

In the case of death from an industrial disease, it is not necessary that the disease is prescribed in any legislation but there must be evidence that the deceased had been engaged in employment where he had been exposed to the agent concerned and that this had led to the disease causing death, or had contributed to it<sup>1</sup>.

Where the deceased died from an industrial disease, it is suggested that the form to be adopted is 'CD died from the industrial disease of [*name of industrial disease*]'<sup>2</sup>. Where appropriate, the words 'and the cause of death was aggravated by lack of care/self-neglect' may be added<sup>3</sup>.

1 See *R v HM Coroner for South Glamorgan, ex p BP Chemicals Ltd* (1987) 151 JP 799, DC.

2 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(a).

3 Ibid Sch 4 Form 22 note (4). As to lack of care and self-neglect see PARA 1035 post.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1033. Dependence on drugs; non-dependent abuse of drugs.

**1033. Dependence on drugs; non-dependent abuse of drugs.**

The choice between a verdict of death from dependence on drugs or death from non-dependent abuse of drugs will depend on the medical evidence. Where the death has occurred following an acute drug overdose, the conclusion of non-dependent abuse of drugs may be appropriate, or of accident or misadventure, depending on the evidence<sup>1</sup>. Where the death has occurred as a result of the chronic poisoning effects of the drugs, the alternative verdict may be 'dependence on drugs'. Where death is caused by casual glue sniffing, the appropriate verdict is death by solvent abuse or a similar verdict, rather than death by drug abuse<sup>2</sup>.

Where the deceased died from dependence on, or non-dependent abuse of, drugs, it is suggested that the form to be adopted is 'CD died from dependence on drugs/non-dependent abuse of drugs'<sup>3</sup>. Where appropriate, the words 'and the cause of death was aggravated by lack of care/self-neglect' may be added<sup>4</sup>.

1 See *R v HM Coroner for Northamptonshire (Kettering District), ex p Tomkinson* (1995) 160 JP 69, DC.

2 *R v Inner South London Coroner, ex p Kendall* [1989] 1 All ER 72, [1988] 1 WLR 1186, DC.

3 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(a).

4 Ibid Sch 4 Form 22 note (4). As to lack of care and self-neglect see PARA 1035 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1034. Want of attention at birth.

**1034. Want of attention at birth.**

A conclusion of want of attention at birth will turn on the facts in evidence and does not include a death from accidental injury, neglect or deliberate injury for which other conclusions are more appropriate. Such a conclusion may be appropriate where a pregnant woman has been delivered of her child without warning or medical aid.

Where the deceased died from want of attention at birth, it is suggested that the form to be adopted is 'CD died from want of attention at birth'<sup>1</sup>. Where appropriate, the words 'and the cause of death was aggravated by lack of care/self-neglect' may be added<sup>2</sup>.

1 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(a).

2 Ibid Sch 4 Form 22 note (4). As to lack of care and self-neglect see PARA 1035 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1035. Lack of care, neglect and self-neglect.

### **1035. Lack of care, neglect and self-neglect.**

'Lack of care', in the context of an inquest, is the obverse of self-neglect and is more aptly described as 'neglect', which means a gross failure to provide adequate nourishment or liquid, or provide or procure basic medical attention or shelter or warmth for someone in a dependent position (because of youth, age, illness or incarceration) who cannot provide it for himself. Failure to provide medical attention for a dependent person whose physical condition is such as to show that he obviously needs it may amount to neglect<sup>1</sup>. Errors in medical diagnosis and treatment are capable of amounting to neglect<sup>2</sup>. As in the case of self-neglect, a conclusion of 'neglect' may only rarely, if ever, be an appropriate conclusion on its own<sup>3</sup> but it may be added, where appropriate, to a conclusion of death from natural causes<sup>4</sup>, industrial disease<sup>5</sup>, dependence on drugs or non-dependent abuse of drugs<sup>6</sup> or want of attention at birth<sup>7</sup>, provided that there is a clear and direct causal connection between the relevant conduct and the cause of death<sup>8</sup>. In the case of suicide, a conclusion of 'neglect' would be appropriate only in a case where the neglect was directly connected with the deceased's suicide<sup>9</sup>.

1 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1 at 25, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972 at 990, CA, per Sir Thomas Bingham MR; followed in *R v HM Coroner for Surrey, ex p Wright* [1997] QB 786, [1997] 1 All ER 823 (affd (1996) 35 BMLR 57, CA). Much of the difficulty to which verdicts of lack of care have given rise appears to be due to an almost inevitable confusion between that expression and the lack of care which is the foundation for a successful claim in common law negligence: *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* supra at 25 and 990 per Sir Thomas Bingham MR. For a review of the cases see *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* supra. See also *R (on the application of Longfield Care Homes Ltd) v Blackburn Coroner* [2004] EWHC 2467 (Admin).

2 *R (on the application of Davies) v Birmingham Deputy Coroner* [2003] EWCA Civ 1739, [2003] All ER (D) 40 (Dec).

3 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1 at 25, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972 at 991, CA, per Sir Thomas Bingham MR.

4 See PARA 1031 ante.

5 See PARA 1032 ante.

6 See PARA 1033 ante.

7 See PARA 1034 ante.

8 *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1 at 26, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972 at 991, CA, per Sir Thomas Bingham MR. The test as to whether there is a clear and direct causal connection between the neglect and the cause of death is whether care could have been provided, thereby avoiding death: *R v HM Coroner for Coventry, ex p Chief Constable of Staffordshire Police* (2000) 164 JP 665. See *R (on the application of Sacker) v West Yorkshire Coroner* [2004] UKHL 11, [2004] 2 All ER 487, [2004] 1 WLR 796 (suicide of prisoner believed to be at risk from self-harm could arguably have been prevented if prison authorities had followed correct care procedures); *R (on the application of Metropolitan Police Comr) v Southern District of Greater London Coroner* [2003] EWHC 1829 (Admin), [2003] All ER (D) 385 (Jun). A verdict can properly reflect that neglect contributed to the cause of death only if it does so in a more direct way than would be sufficient for the purposes of establishing civil liability: *R (on the application of S) v Inner West London Coroner* [2001] EWHC Admin 105, 61 BMLR 222. See also *R (on the application of Davies) v Birmingham Deputy Coroner* [2003] EWCA Civ 1739, [2003] All ER (D) 40 (Dec).

9     *R v HM Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1 at 26, sub nom *R v North Humberside and Scunthorpe Coroner, ex p Jamieson* [1994] 3 All ER 972 at 991, CA, per Sir Thomas Bingham MR. As to suicide see PARA 1036 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1036. Killed himself.

### **1036. Killed himself.**

A finding of suicide must be based on evidence of intention<sup>1</sup>, the standard of proof being the criminal one of beyond reasonable doubt<sup>2</sup>. Where the death from self-inflicted injury does not follow until after the expiration of a year and a day from the date when the injury was inflicted, a finding of suicide may nevertheless still be made<sup>3</sup>.

Where the deceased committed suicide, it is suggested that the form to be adopted is 'CD killed himself [whilst the balance of his mind was disturbed]'<sup>4</sup>. The words in brackets may be added only if there is evidence that this had been so<sup>5</sup>. The conclusion may be recorded by using other phraseology, such as 'suicide' or 'took his/her own life'.

1 *R v Huntbach, ex p Lockley* [1944] KB 606, [1944] 2 All ER 453; *Re Davis* [1968] 1 QB 72, [1967] 1 All ER 688, CA; *R v HM Coroner for City of London, ex p Barber* [1975] 3 All ER 538, sub nom *R v City of London Coroner, ex p Barber* [1975] 1 WLR 1310, DC; *R v HM Coroner for the County of Devon, ex p Glover* (1984) 149 JP 208; *R v HM Coroner for Northamptonshire, ex p Walker* (1988) 153 JP 289, DC; *R v West London Coroner, ex p Gray* [1988] QB 467, [1987] 2 All ER 129, DC.

2 *R v North Northumberland Coroner, ex p Armstrong* (1987) 151 JP 773 at 785, DC; *R v Birmingham and Solihull Coroner, ex p Nutt* (21 April 1993, unreported).

3 Formerly death from self-inflicted injury was not suicide if the death occurred more than a year and a day after the injury was inflicted (see *R v Inner West London Coroner, ex p De Luca* [1989] QB 249, [1988] 3 All ER 414, DC); but the 'year and a day rule' has now been abolished (see the Law Reform (Year and a Day Rule) Act 1996 s 1; and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 85).

4 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b).

5 Suicide is never to be presumed: *Southall v Cheshire County News Ltd* (1912) 5 BWCC 251, CA; *R v Huntbach, ex p Lockley* [1944] KB 606, [1944] 2 All ER 453.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1037. Attempted or self-induced abortion.

**1037. Attempted or self-induced abortion.**

Where the deceased died as a result of an attempted or self-induced abortion<sup>1</sup>, it is suggested that the form to be adopted is 'CD died as a result of an attempted/self-induced abortion'<sup>2</sup>.

1 As to abortion see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 109 et seq.

2 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1038. Accident; misadventure.

### **1038. Accident; misadventure.**

Although the two conclusions of 'accident' and 'misadventure' have been held to carry the same meaning in practice<sup>1</sup>, many coroners draw a distinction between them based on the conduct of the deceased. If he is shown to have embarked on a hazardous course of action which has ended fatally, misadventure may be regarded as more appropriate than accidental death<sup>2</sup>.

Where a person suffering from a non-life threatening medical condition dies as a result of medical treatment, and there is no question of unlawful killing, the appropriate conclusion is accident/misadventure<sup>3</sup>.

Where the deceased died as a result of an accident or misadventure, it is suggested that the form to be adopted is 'CD died as a result of an accident/misadventure'<sup>4</sup>.

1 *R v Portsmouth Coroner's Court, ex p Anderson* [1988] 2 All ER 604 at 609, [1987] 1 WLR 1640 at 1646, DC, per Mann J (where the ordinary meaning of 'misadventure' was held to be indistinguishable from that of 'accident'); *R v Inner South London Coroner, ex p Kendall* [1989] 1 All ER 72 at 77, [1988] 1 WLR 1186 at 1192-1193, DC, per Simon Brown J; *R v Coroner for Inner North London, ex p Dieso Koto* (1993) 157 JP 857, DC; *R v HM Coroner for Birmingham and Solihull, ex p Benton* [1997] 8 Med LR 362.

2 *Re Collins, A-G v HM Coroner for Southern District of Greater London* (1987) 152 JP 641; *R v Wolverhampton Coroner, ex p McCurbin* [1990] 2 All ER 759 at 765, [1990] 1 WLR 719 at 728, CA, per Woolf LJ.

3 *R v HM Coroner for Birmingham and Solihull, ex p Benton* [1997] 8 Med LR 362 at 366. Cf para 1035 ante.

4 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1039. Disaster.

**1039. Disaster.**

Where the deceased died as a result of a disaster which was the subject of a public inquiry, it is suggested that the form to be adopted is 'CD died in the [*insert name of disaster which was subject of a public inquiry*] disaster'<sup>1</sup>.

<sup>1</sup> Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b) (amended by SI 1999/3325).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1040. Execution of sentence of death.

**1040. Execution of sentence of death.**

Judgment of death may no longer be passed in the United Kingdom for any offence<sup>1</sup>, and no person may suffer death for murder<sup>2</sup>. The body of a person on whom sentence of death has been executed abroad may be returned to England or Wales, in which case an inquest would need to be held<sup>3</sup>.

Where the deceased died as a result of the execution of sentence of death, it is suggested that the form to be adopted is 'execution of sentence of death'<sup>4</sup>.

1 Before the passing of the Crime and Disorder Act 1998, sentence of death could still in theory be passed for treason or piracy but the sentence for such offences is now imprisonment for life: see the Treason Act 1814 s 1 (amended by the Crime and Disorder Act 1998 s 36(4)) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 363); and the Piracy Act 1837 s 2 (amended by the Crime and Disorder Act 1998 s 36(5)) (see INTERNATIONAL RELATIONS LAW vol 61 (2010) PARA 160).

2 See the Murder (Abolition of Death Penalty) Act 1965 s 1(1) (as amended); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 90.

3 See PARA 917 ante.

4 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1041. Killed lawfully.

**1041. Killed lawfully.**

A conclusion that the deceased was killed lawfully replaces the former conclusion of justifiable homicide<sup>1</sup> where the deceased has been killed by a person acting in self-defence or to prevent the commission of a crime<sup>2</sup>.

Where the deceased was killed lawfully, it is suggested that the form to be adopted is 'CD was killed lawfully'<sup>3</sup>.

1 See *R v Durham Coroner, ex p A-G* (1978) Times, 29 June, DC.

2 See the Criminal Law Act 1967 s 3; and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 20. See *R (on the application of Bennett) v Inner South London Coroner* [2006] EWHC 196 (Admin), [2006] All ER (D) 47 (Feb) (common law test for self-defence applies to state agents).

3 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b).

**UPDATE**

**1041 Killed lawfully**

NOTE 2--*R (on the application of Bennett)*, cited, affirmed: [2007] EWCA Civ 617, [2007] All ER (D) 306 (Jun).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1042. Open verdict.

### **1042. Open verdict.**

An open verdict is appropriate where the evidence does not fully or further disclose the means whereby the cause of death arose<sup>1</sup>. It is returned where evidence sufficient to support a specific conclusion has been unavailable, including where no clear cause of death has been found.

<sup>1</sup> Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(b). 'If [coroners] find themselves compelled to return an open verdict, that is not in any sense a reflection on them. It does not suggest that they are not doing their job properly or are insufficiently perceptive. There are many, many cases where there is a real doubt as to the cause of death and where an open verdict is right, and where anything else is unjust to the family of the deceased': *R v HM Coroner for City of London, ex p Barber* [1975] 3 All ER 538 at 540, sub nom *R v City of London Coroner, ex p Barber* [1975] 1 WLR 1310 at 1313, DC, per Lord Widgery CJ; cited with approval in *Re Inquest into the death of Roberto Calvi deceased* (1983) Times, 2 April, DC (where the coroner's direction to the jury that an open verdict 'might seem like a super open door to scuttle through' in the event of their being unable to decide in favour of either suicide or unlawful killing was considered to be an unfortunate choice of words as it implied that there was something cowardly about reaching an open verdict). See also *R v HM Coroner for Northamptonshire, ex p Walker* (1988) 153 JP 289, DC (where there was real doubt as to the cause of death and an open verdict was held to be right, anything else being unjust to the family of the deceased); *Re Collins, A-G v HM Coroner for Southern District of Greater London* (1987) 152 JP 641 (where proper prominence was not given to the choice of an open verdict).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1043. Killed unlawfully.

### **1043. Killed unlawfully.**

The evidence needed to return a conclusion of unlawful killing is that needed to establish an unlawful homicide. This includes murder<sup>1</sup>, manslaughter<sup>2</sup>, infanticide<sup>3</sup> and, probably, causing death by dangerous driving<sup>4</sup> or by careless driving while under the influence of drink or drugs<sup>5</sup>. When directing a jury as to the standard of proof required to reach a verdict of unlawful killing, a coroner is required to direct the members of the jury that they should be satisfied beyond all reasonable doubt or satisfied so that they are sure that unlawful killing is the right verdict<sup>6</sup>. The coroner should also direct the members of the jury that, if they are not satisfied that a verdict of unlawful killing is appropriate, they should go on to consider on the balance of probabilities whether a verdict of death by misadventure is appropriate<sup>7</sup>.

Where the deceased was killed unlawfully, it is suggested that the form to be adopted is 'CD was killed unlawfully'<sup>8</sup>.

1 As to murder see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 89 et seq.

2 As to manslaughter see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 92 et seq. As to the directions which should be given to the jury on manslaughter comprising unlawful killing alleged to have occurred because of neglect on the part of the police see *R v West London Coroner, ex p Grey* [1988] QB 467, [1987] 2 All ER 129, DC. See also *R (on the application of Anderson) v Inner North Greater London Coroner* [2004] EWHC 2729 (Admin), [2004] All ER (D) 410 (Nov).

3 As to infanticide see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 103.

4 Ie an offence under the Road Traffic Act 1988 s 1 (as substituted): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 963.

5 Ie an offence under ibid s 3A (as added): see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 974.

6 *R v West London Coroner, ex p Grey* [1988] QB 467, [1987] 2 All ER 129, DC; *R v St Pancras Coroner's Court, ex p Higgins* (1988) 152 JP 637, DC (no direction given); *R v Wolverhampton Coroner, ex p McCurbin* [1990] 2 All ER 759, [1990] 1 WLR 719, CA; *R v HM Coroner for the County of Hampshire, ex p A-G* (1990) 155 JP 190, DC; *R (on the application of Sharman) v Inner North London Coroner* [2005] EWHC 857 (Admin), [2005] All ER (D) 163 (May) (jury wrongly directed). Where the actus reus involves a joint enterprise, a verdict of unlawful killing may be returned: *R v Coroner for Inner North London, ex p Diesa Koto* (1993) 157 JP 857, DC. See also CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARA 1372.

7 *R v Wolverhampton Coroner, ex p McCurbin* [1990] 2 All ER 759, [1990] 1 WLR 719, CA.

8 Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(c).

### **UPDATE**

#### **1043 Killed unlawfully**

NOTES--Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(vii) Verdict/B. FORM OF VERDICT/1044. Still-birth.

**1044. Still-birth.**

If it is found that the body was that of a still-born child<sup>1</sup>, there can be no complete inquest since there has been no independent life and, therefore, no subsequent death. Accordingly in such cases the inquisition should be marked 'still-birth' and not completed<sup>2</sup>.

1 For the purposes of the Births and Deaths Registration Act 1953, 'still-born child' means a child which has issued forth from its mother after the twenty-fourth week of pregnancy and which did not at any time after being completely expelled from its mother breathe or show any other signs of life: s 41 (amended by the Still-Birth (Definition) Act 1992 s 1(1)).

2 See the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22 note (4)(d).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(viii) The Inquisition/1045. Drawing up and signing inquisition.

### **(viii) The Inquisition**

#### **1045. Drawing up and signing inquisition.**

An inquisition must be in writing under the hand of the coroner and, in the case of an inquest held with a jury<sup>1</sup>, under the hands of the jurors who concur in the verdict<sup>2</sup>. There should not, save for exceptional reasons, be an adjournment before the signing<sup>3</sup>. A coroner who, in drawing up the inquisition, materially alters or adds to the verdict of the jury without the knowledge of the jury may be indicted for forgery<sup>4</sup>.

1 As to references to an inquest held with a jury see PARA 980 note 1 ante.

2 Coroners Act 1988 s 11(5)(a). As to the form of the inquisition see PARA 1046 post.

3 *R v Mallett and Chilcote* (1846) 1 Cox CC 336; and see the cases cited in para 1010 note 8 ante.

4 *R v Marsh* (1703) 3 Salk 172.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(viii) The Inquisition/1046. Form of inquisition.

### **1046. Form of inquisition.**

The inquisition must set out, so far as such particulars have been proved:

- 226 (1) who the deceased was and how<sup>1</sup>, when and where the deceased came by his death; and
- 227 (2) must be in such form as may be prescribed by rules made by statutory instrument<sup>2</sup>.

The prescribed form of inquisition comprises the following information:

- 228 (a) name of the deceased<sup>3</sup>, if known;
- 229 (b) the injury or disease causing death<sup>4</sup>;
- 230 (c) the time, place and circumstances at or in which the injury was sustained<sup>5</sup>;
- 231 (d) the conclusion of the jury or the coroner, as the case may be, as to the death<sup>6</sup>;
- 232 (e) particulars for the time being required by the Births and Deaths Registration Act 1953 to be registered<sup>7</sup> concerning the death<sup>8</sup>.

In the case of deaths due to violence, medical particulars of the injury should be given under head (b) above and particulars of the accident or other occurrence causing the injury under head (c) above. In the case of deaths from poison, including drugs, the poison should be specified. If it is not possible to determine the precise dates on which the injury was sustained, it should be stated that the poisoning occurred between certain dates or, if these are not known, over a period of time<sup>9</sup>.

At a coroner's inquest into the death of a person who came by his death by murder, manslaughter or infanticide, the purpose of the proceedings does not include the finding of any person guilty of the murder, manslaughter or infanticide; and accordingly a coroner's inquisition must in no case charge a person with any of those offences<sup>10</sup>.

The inquisition consists of three parts, namely the caption<sup>11</sup>, the verdict<sup>12</sup> and the attestation<sup>13</sup>.

1 In head (1) in the text, 'how' means by what means and in what circumstances: *R (on the application of Sacker) v West Yorkshire Coroner* [2004] UKHL 11, [2004] 2 All ER 487, [2004] 1 WLR 796. As to the compliance of the procedure of an inquisition with the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) art 2 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 123) see *R (on the application of Middleton) v West Somerset Coroner* [2004] UKHL 10, [2004] 2 AC 182, [2004] 2 All ER 465; *R (on the application of Goodson) v Bedfordshire and Luton Coroner (Luton and Dunstable Hospital NHS Trust, interested party)* [2004] EWHC 2931 (Admin), [2005] 2 All ER 791, [2006] 1 WLR 432; and PARA 989 ante.

2 See the Coroners Act 1988 s 11(5)(b), (c). For the prescribed form of inquisition see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 22. The prescribed form of inquisition is designed to be used in inquests held with or without a jury. As to the use of forms see PARA 907 note 5 ante.

As from a day to be appointed, head (2) in the text is substituted so as to provide that the inquisition must be in such form as may be prescribed in rules made in accordance with the Constitutional Reform Act 2005 s 12, Sch 1 Pt 1 (not yet in force): Coroners Act 1988 s 11(5)(c) (prospectively substituted by the Constitutional Reform Act 2005 s 12(2), Sch 1 Pt 2 paras 19, 20). At the date at which this volume states the law, no such day had been appointed.

3 For the meaning of 'deceased' see PARA 966 note 3 ante.

4 In the case of a death from natural causes or from industrial disease, want of attention at birth or dependence on or non-dependent abuse of drugs, the immediate cause of death and the morbid conditions, if any, giving rise to the immediate cause of death must be inserted under this head: Coroners Rules 1984, SI 1984/552, Sch 4 Form 22 note (2).

5 This head is to be omitted if the cause of death is one of those stated in note 4 supra: *ibid* Sch 4 Form 22 note (3). It is sometimes referred to as the 'narrative verdict' and should be included under this head and not under head (d) in the text: *R v South Yorkshire Coroner, ex p Stringer* (1993) 158 JP 453 at 481-482, DC. As to the inclusion in the verdict of short, factual statements see PARA 1028 ante. There is no requirement that the coroner should explicitly invite a jury to reach a narrative verdict: see *R v HM Coroner for Western District of East Sussex, ex p Homber (or Homberg), Roberst and Manners* (1994) 158 JP 357, DC, per Simon Brown LJ.

6 As to the form of verdict see PARAS 1030-1044 ante.

7 These particulars comprise: (1) the date and place of death; (2) the name and surname of the deceased; (3) the sex of the deceased; (4) the maiden surname of a woman who has married; (5) the date and place of birth; and (6) the occupation and usual address of the deceased: Coroners Rules 1984, SI 1984/552, Sch 4 Form 22. See also the Births and Deaths Registration Act 1953 s 15; the Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 39, Sch 2 Form 13; and REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 508.

8 Coroners Rules 1984, SI 1984/552, Sch 4 Form 22.

9 See Home Office Circular 68/1955 App 4 para 3.

10 Coroners Act 1988 s 11(6).

11 As to the caption see PARA 1047 post.

12 As to the contents and form of the verdict see PARA 1030 et seq ante.

13 As to the attestation see PARA 1048 post.

## **UPDATE**

### **1046 Form of inquisition**

NOTE 2--Day now appointed: SI 2006/1014.

NOTE 7--SI 1987/2088 Sch 2 Form 13 substituted: SI 2006/2827.

TEXT AND NOTE 10--1988 Act s 11(6) amended: Corporate Manslaughter and Corporate Homicide Act 2007 Sch 2 para 1(2)(a).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(viii) The Inquisition/1047. Caption.

### **1047. Caption.**

The place in which the inquest is held must appear in the caption and show that it is within the coroner's jurisdiction<sup>1</sup>.

It must appear that the inquisition was taken before a court of competent jurisdiction, and therefore it is not sufficient to describe the coroner by name only; he must be designated by the style of his office, not only as coroner<sup>2</sup>, but also as coroner for the district within which the inquest was held<sup>3</sup>. The inquisition may be quashed if the coroner holding the inquest did not have jurisdiction for doing so<sup>4</sup>.

Provision is made by the form of inquisition for showing where the inquest was held and which coroner held it. If a coroner acts as coroner for another district in the same administrative area during the illness, incapacity or unavoidable absence of the coroner for that district or where there is a vacancy in the office of coroner for that district, the inquisition returned must certify the cause of the coroner's holding the inquest<sup>5</sup>.

The date on which the inquest was held must appear, and, if it commenced on one day and was continued by adjournment on subsequent days, the days of adjournment should be stated<sup>6</sup>, the prescribed form<sup>7</sup> providing accordingly. If the date is shown to be a Sunday, the inquisition will be bad<sup>8</sup>.

According to whether the inquest is held with or without a jury or partly with and partly without a jury, the words 'before and by' in the caption should be modified. In an inquest held without a jury 'by' should be used. In an inquest held with a jury 'before' should be used. In an inquest held partly with and partly without a jury 'before and by' should be used<sup>9</sup>.

1 *Pinner's Case* (1584) Cro Eliz 31; *Long's Case* (1604) 5 Co Rep 120 (where the caption of an inquisition stating the inquest to have been held at Cossam before the coroner for the liberty of Cossam was held to be sufficient without alleging that Cossam was within the liberty of Cossam); and see *R v Pomfret Coroner* (1844) 8 Jur 910. As to the local jurisdiction of the coroner see PARA 915 ante.

2 Staundford's Pleas of the Crown 96 (where an inquisition stated in the caption to have been held *super visum corporis* before the Mayor of London without describing him as coroner for the City of London was held insufficient).

3 *Dearing's Case* (1590) Cro Eliz 193 (where the inquisition, which was stated to have been taken before TG, 'coroner of the Lord Barkley', was held insufficient).

4 *Foxall v Barnett* (1853) 2 E & B 928; and see PARA 1072 post.

5 See the Coroners Act 1988 s 5(3); and PARA 915 ante.

6 See *R v Fearnley* (1786) 1 Term Rep 316; *Dakin's Case* (1672) 2 Saund 291; *R v Skeats and Biles* (1846) 7 LTOS 433 (where an inquisition, stated in the caption to have been held on 15 June and by adjournment on several successive days, purported to have been signed and sealed 'on the day first aforesaid', it was held sufficient).

7 As to the form of inquisition see PARA 1046 ante.

8 Coroners Rules 1984, SI 1984/552, r 18; *Mackalley's Case* (1611) 9 Co Rep 61b, 65a at 66b; *Hoyle v Lord Cornwallis* (1720) 1 Stra 387.

9 Home Office Circular 68/1955 App 4 para 1. As to the cases in which an inquest may be held without a jury see PARA 978 ante; and as to those in which a jury is necessary see PARA 979 ante.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(viii) The Inquisition/1048. Attestation.

**1048. Attestation.**

An inquisition must be in writing under the hand of the coroner; and, in the case of an inquest held with a jury, under the hands of the jurors who concur in the verdict<sup>1</sup>. Where a deputy or assistant deputy coroner acting for, or as, the coroner signs a document, he must sign it in his own name as deputy or assistant deputy coroner, as the case may be<sup>2</sup>.

1 Coroners Act 1988 s 11(5)(a). An inquisition which is not signed by all the jurors concurring in the verdict, or at all events by sufficient of them, is wholly void and not an inquisition at all: *R v Norfolk Justices* (1792) Nolan 141. As to a verdict by a majority see PARA 1029 ante; and as to the court's power to amend an inquisition see PARA 1075 post.

2 Coroners Rules 1984, SI 1984/522, r 58.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ix) Closing of Inquest/1049. Prevention of similar fatalities.

## **(ix) Closing of Inquest**

### **1049. Prevention of similar fatalities.**

A coroner<sup>1</sup> who believes that action should be taken to prevent the recurrence of fatalities similar to that in respect of which the inquest<sup>2</sup> is being held may announce at the inquest that he is reporting the matter in writing to the person or authority who may have power to take such action, and he may report the matter accordingly<sup>3</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the meaning of 'inquest' see PARA 938 note 2 ante.

3 Coroners Rules 1984, SI 1984/552, r 43. The coroner's power to make a report under r 43 is ancillary to the inquest procedure and not its mainspring: *Re Kelly*(1996) 161 JP 417, DC.

## **UPDATE**

### **1049 Prevention of similar fatalities**

TEXT AND NOTES--SI 1984/552 rr 43, 43A, 43B substituted for r 43: SI 2008/1652.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(5) PROCEEDINGS AT INQUESTS/(ix) Closing of Inquest/1050. Closing of inquest.

**1050. Closing of inquest.**

Every inquest<sup>1</sup> must be closed in a formal manner<sup>2</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 Coroners Rules 1984, SI 1984/552, r 16.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(6) FUNCTUS OFFICIO/1051. In general.

## **(6) FUNCTUS OFFICIO**

### **1051. In general.**

A coroner has no power, after holding an inquest on a body and recording the verdict, to hold a second inquest in relation to the same body unless and until the verdict of the first inquest has been set aside<sup>1</sup>, for the coroner is functus officio<sup>2</sup> as soon as the verdict is recorded<sup>3</sup>. The High Court may, however, direct a coroner to amend the inquisition<sup>4</sup>.

Where a coroner has ordered a post-mortem examination and decided that an inquest is unnecessary<sup>5</sup>, the issue of the appropriate certificate to the registrar of deaths does not constitute an inquest<sup>6</sup>; and the Attorney General<sup>7</sup> may thus refuse a coroner's request for a fiat to apply to the court for an order to hold an inquest on the grounds that, as no inquest had been held, the coroner is not functus officio.

A coroner has a statutory power to take evidence after the inquest has been concluded and to correct errors in the certificate delivered after the inquest to the registrar of deaths<sup>8</sup>.

1 As to the setting aside of verdicts see PARAS 1072-1075 post.

2 Ie he has discharged his duty and is free from further obligations.

3 *R v White* (1860) 3 E & E 137; *R v West Yorkshire Coroner, ex p Smith*[1983] QB 335 at 359, [1982] 3 All ER 1098 at 1108, CA, per Donaldson LJ.

4 See PARA 1075 post.

5 See PARA 965 ante.

6 Thus if a coroner subsequently receives evidence bringing the case within the statutory criteria for holding an inquest (see PARA 939 ante), and he still has the body, he must hold an inquest: *Terry v East Sussex Coroner*[2001] EWCA Civ 1094, [2002] QB 312, [2002] 2 All ER 141. If he no longer has the body, it is prima facie for the coroner in whose district the body now lies, or else the coroner may be directed by the Secretary of State to hold an inquest without a body: see PARA 957 ante.

7 As to the Attorney General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 529.

8 See PARA 1052 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(7) PROCEDURE AFTER INQUESTS/1052. Certificate after inquest.

## **(7) PROCEDURE AFTER INQUESTS**

### **1052. Certificate after inquest.**

Where an inquest into a death is held, the coroner must, within five days after the finding of the inquest is given, send to the registrar of deaths a certificate under his hand:

- 233 (1) giving information concerning the death;
- 234 (2) specifying the finding with respect to the particulars which under the Births and Deaths Registration Act 1953 are required to be registered concerning the death and with respect to the cause of death; and
- 235 (3) specifying the time and place at which the inquest was held<sup>1</sup>.

Where an inquest is held into a death and the registrar receives a certificate under the coroner's hand giving information concerning the death and specifying the finding with respect to the particulars required to be registered concerning the death and with respect to the cause of death, the registrar must in the prescribed form and manner register the death and the particulars as found at the inquest and, if the death has been previously registered, such particulars must be entered in the prescribed manner without any alteration of the original entry<sup>2</sup>.

Where a coroner does not resume an inquest which has been adjourned because of certain criminal proceedings<sup>3</sup>, the coroner must<sup>4</sup> send to the registrar of deaths a certificate under his hand stating the result of the relevant criminal proceedings<sup>5</sup>.

<sup>1</sup> Coroners Act 1988 s 11(7). As to the particulars required to be registered see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 508.

<sup>2</sup> Births and Deaths Registration Act 1953 s 23(2) (amended by the Coroners Act 1988 s 36(1), Sch 3 para 4(2)). As to registration where an inquest has been held see the Registration of Births and Deaths Regulations 1987, SI 1987/2088, reg 45; and as to the noting of a previous entry on registration after an inquest see reg 46. See further REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 567.

<sup>3</sup> Ie in compliance with the Coroners Act 1988 s 16(1) (as amended): see PARA 1001 ante.

<sup>4</sup> Ie without prejudice to ibid s 16(4): see PARA 1001 ante.

<sup>5</sup> Ibid s 16(5). A certificate under the hand of a coroner stating the result of the relevant criminal proceedings which he furnishes to a registrar of deaths under s 16(5) or s 16(7) (see PARA 1001 ante) must be furnished within 28 days from the date on which he is notified of the result of the proceedings under s 17 (as amended) (see PARA 1001 ante) or, if the person charged with an offence before a magistrates' court as mentioned in s 17 (as amended) is not committed for trial to the Crown Court, within 28 days from the date on which he is notified under s 17 (as amended) of the result of the proceedings in the magistrates' court: Coroners Rules 1984, SI 1984/552, r 31 (amended by SI 1999/3325).

## **UPDATE**

### **1052 Certificate after inquest**

NOTE 2--SI 1987/2088 reg 45 amended: SI 2006/2827.





Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(7) PROCEDURE AFTER INQUESTS/1053. Correction of errors.

**1053. Correction of errors.**

Where an error of fact or substance, other than an error relating to the cause of death, occurs in the information given by a coroner's certificate concerning a death into which he has held an inquest, or such an error relating to the cause of death occurs in the information given by a coroner's certificate<sup>1</sup> in the case of an inquest which was adjourned<sup>2</sup> but was subsequently resumed, the coroner, if satisfied by evidence on oath or statutory declaration that such an error exists, may certify under his hand to the officer having the custody of the register in which the information is entered the nature of the error and the true facts of the case as ascertained by him on that evidence; and the error may thereupon be corrected by that officer in the register by entering in the margin, without any alteration of the original entry, the facts as so certified by the coroner<sup>3</sup>.

1    le issued under the Coroners Act 1988 s 16(4): see PARA 1001 ante.

2    le under *ibid* s 16(1) (as amended): see PARA 1001 ante.

3    Births and Deaths Registration Act 1953 s 29(4) (amended by the Criminal Law Act 1977 s 65, Sch 12; the Coroners Act 1980 s 1, Sch 2; and the Coroners Act 1988 s 36(1), Sch 3 para 5).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(7) PROCEDURE AFTER INQUESTS/1054. Burial orders.

#### **1054. Burial orders.**

An order of a coroner<sup>1</sup> authorising the burial of a body<sup>2</sup> must not be issued unless the coroner has held, or has decided to hold, an inquest into the death<sup>3</sup>.

A coroner cannot issue a burial order where he proposes to dispose of the case by post-mortem examination without inquest<sup>4</sup>.

The coroner should ensure that a burial order and a certificate for the disposal of the body issued by a registrar of births and deaths are not both issued in respect of the same body.

Where a coroner is satisfied that a certificate for the disposal of a body has been issued by a registrar, the coroner must not issue an order authorising the burial of that body unless the certificate has been surrendered to him; and in such a case he must, on issuing the order, transmit the certificate to the registrar and inform him of the issue of the order<sup>5</sup>. If he has issued a burial order and later it is proposed to cremate the body, he should, before issuing a certificate for cremation<sup>6</sup>, withdraw and cancel or destroy the burial order<sup>7</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the prescribed form of order see the Coroners Rules 1984, SI 1984/552, r 60, Sch 4 Form 21; and see also the Coroners (Welsh Forms) Rules 1970, SI 1970/1403, r 3, Schedule. As to the use of forms see PARA 907 note 5 ante.

3 Coroners Rules 1984, SI 1984/552, r 14.

4 Ie under the Coroners Act 1988 s 19: see PARA 965 ante.

5 Coroners Rules 1984, SI 1984/552, r 15.

6 As to the issue by the coroner of Form E certificates for cremation see PARA 1055 post; and CREMATION AND BURIAL vol 10 (Reissue) PARAS 957, 959.

7 See PARA 1055 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(7) PROCEDURE AFTER INQUESTS/1055. Cremation certificate.

### **1055. Cremation certificate.**

In relation to deaths involving a coroner<sup>1</sup>, no cremation is allowed to take place unless:

- 236 (1) a post-mortem examination has been made and the cause of death has been certified by the coroner<sup>2</sup> and a certificate in the prescribed form<sup>3</sup> has been given by the coroner<sup>4</sup>;
- 237 (2) an inquest has been opened and a certificate in the prescribed form<sup>5</sup> has been given by the coroner<sup>6</sup>; or
- 238 (3) the death occurred outside the British Islands and the coroner has certified on the prescribed form<sup>7</sup> that the death was by natural causes and no post-mortem examination or inquest is necessary<sup>8</sup>.

If the coroner has issued a burial order before being informed that the body is to be cremated, he should, before giving a certificate, withdraw and cancel or destroy the burial order<sup>9</sup>.

1 As to the conditions under which cremation may take place generally see CREMATION AND BURIAL vol 10 (Reissue) PARA 957 et seq.

2 Ie under the Coroners Act 1988 s 19: see PARA 965 ante.

3 For the prescribed form of certificate see the Cremation Regulations 1930, SR & O 1930/1016, Schedule Form E (substituted by SI 1965/1146; and amended by SI 2006/92).

4 Cremation Regulations 1930, SR & O 1930/1016, reg 8(c); Interpretation Act 1978 s 17(2)(b).

5 See note 3 supra.

6 Cremation Regulations 1930, SR & O 1930/1016, reg 8(d) (amended by SI 1965/1146). As to the duty of the medical referee not to allow a cremation to take place until an inquest has been opened where the coroner has given notice that he intends to hold an inquest on the body or where there are suspicious circumstances attaching to the death see CREMATION AND BURIAL vol 10 (Reissue) PARA 968; and as to the conditions under which cremation may take place generally see CREMATION AND BURIAL vol 10 (Reissue) PARA 957 et seq. As to the cremation of body parts see the Cremation Regulations 1930, SR & O 1930/1016, reg 14A (as added); and CREMATION AND BURIAL vol 10 (Reissue) PARA 964.

7 See note 3 supra.

8 Cremation Regulations 1930, SR & O 1930/1016, reg 8(dd) (added by SI 2006/92).

9 See PARA 1054 ante.

### **UPDATE**

#### **1055 Cremation certificate**

TEXT AND NOTES--SR & O 1930/1016 (as amended) replaced: Cremation (England and Wales) Regulations 2008, SI 2008/2841.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/ (8) DOCUMENTS AND OTHER PROPERTY/1056. Powers of entry and seizure of documents.

## **(8) DOCUMENTS AND OTHER PROPERTY**

### **1056. Powers of entry and seizure of documents.**

A coroner has no statutory power to enter premises or to search for and seize exhibits<sup>1</sup>. If a crime is suspected, a police officer may have powers and can give evidence as a witness<sup>2</sup>.

A coroner or his officer is justified in searching, not only the body, but the effects of the deceased and the premises where the body is found if there is reason to think that the search is likely to lead to the discovery of evidence bearing on the cause of death<sup>3</sup>. As a rule the search should be with reference to questions likely to arise at the inquest and not a roving investigation<sup>4</sup>. Possession should not be taken of property other than that which is likely to be required for the purposes of the investigation unless there is no trustworthy person in whose charge it can be left; if no such person is available, it is a convenient course for the coroner's officer to take possession of the property, though this is not strictly any part of his duty<sup>5</sup>. The police have no right at common law or by statute to retain property belonging to another, originally seized as part of a crime investigation, merely because it was thereafter needed for an inquest<sup>6</sup>.

A coroner as such has no right to the money or property of the deceased. If he has reason to believe that the deceased has no relatives or that they cannot be found, he should communicate with the Treasury Solicitor who can take action in the matter under his statutory powers<sup>7</sup>. If there appears to be no will and no kin, and the known assets exceed the known claims, the Treasury Solicitor will take over the administration of the estate and deal with further claims on the estate<sup>8</sup>.

1 As to common law powers see *R v Soleguard* (1738) Andr 231. As to the proposals to give statutory power to the coroner to enter premises and seize documents see PARA 902 ante.

2 See the Police and Criminal Evidence Act 1984 Pt II (ss 8-23) (as amended); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 869 et seq.

3 See Home Office Circular 68/1955 para 16 (setting out the opinion of the Law Officers of the Crown given in 1896). The evidence referred to presumably means evidence which would be material for the purposes of an inquest, including eg evidence of identity.

4 See Home Office Circular 68/1955 para 16; *Ghani v Jones*[1970] 1 QB 693, [1969] 3 All ER 1700, CA.

5 See Home Office Circular 68/1955 para 16; *Ghani v Jones*[1970] 1 QB 693, [1969] 3 All ER 1700, CA.

6 See *Settelen v Metropolitan Police Comr*[2004] EWHC 2171 (Ch), [2004] All ER (D) 178 (Sep).

7 See under the Treasury Solicitor Act 1876 s 2 (as amended) (which authorises the making of grants of administration in respect of the personal estate of intestates whose property passes to the Crown as bona vacantia): see EXECUTORS AND ADMINISTRATORS vol 17(2) (Reissue) PARA 171.

8 Home Office Circular 68/1955 para 17. For the purpose of judging whether claims to kinship etc relate to the deceased, the Treasury Solicitor would wish to have a physical description of the deceased forwarded with the coroner's report: para 17.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/ (8) DOCUMENTS AND OTHER PROPERTY/1057. Custody of exhibits.

**1057. Custody of exhibits.**

Every exhibit at an inquest<sup>1</sup> must, unless a court otherwise directs, be retained by the coroner<sup>2</sup> until he is satisfied that the exhibit is not likely to be, or will no longer be, required for the purposes of any other legal proceedings<sup>3</sup>. If a request for its delivery has been made by a person appearing to the coroner to be entitled to possession of it, it must be delivered to that person, or, if no such request has been made, be destroyed or otherwise disposed of as the coroner thinks fit<sup>4</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 Coroners Rules 1984, SI 1984/552, r 55. 'Legal proceedings' includes proceedings for the purpose of obtaining any benefit or other payments under the provisions of the Social Security Contributions and Benefits Act 1992 relating to industrial injuries (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 126 et seq) or under s 111, Sch 8 Pt I para 4 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 167): Coroners Rules 1984, SI 1984/552, r 2(1); Interpretation Act 1978 s 17(2)(a). As to custody of inquisitions and other documents see PARA 1058 post.

4 Coroners Rules 1984, SI 1984/552, r 55.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/ (8) DOCUMENTS AND OTHER PROPERTY/1058. Custody of inquisitions and documents.

**1058. Custody of inquisitions and documents.**

Coroners keep in their own custody all inquisitions.

Any document, other than an exhibit at an inquest<sup>1</sup>, in the possession of a coroner<sup>2</sup> in connection with an inquest or post-mortem examination<sup>3</sup> must be retained by the coroner for at least 15 years, unless a court otherwise directs<sup>4</sup>. The coroner may, however, deliver any such document to any person who in his opinion is a proper person to have possession of it<sup>5</sup>.

The local authority archives may accept the records<sup>6</sup>.

1 For the meaning of 'inquest' see PARA 938 note 2 ante.

2 For the meaning of 'coroner' see PARA 938 note 1 ante.

3 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

4 Coroners Rules 1984, SI 1984/552, r 56.

5 Ibid r 56 proviso.

6 See Home Office Circular 250/1967. Coroners are not 'public authorities' within the meaning of the Freedom of Information Act 2000 s 3 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 583) and there is therefore no statutory right of access to information held by coroners or by others on their behalf. However, once a coroner's records have been selected for preservation and deposited in accordance with the Public Records Act 1958 s 4 (see constitutional law and human rights vol 8(2) (Reissue) PARA 838) then rights of access will apply to this information.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/ (8) DOCUMENTS AND OTHER PROPERTY/1059. Copies of documents.

### **1059. Copies of documents.**

The coroner<sup>1</sup> must, on application and on payment of the prescribed fee<sup>2</sup>, if any, supply to any person who, in the opinion of the coroner, is a properly interested person a copy of any report of a post-mortem examination<sup>3</sup> or special examination<sup>4</sup>, or of any notification of the preservation of body parts<sup>5</sup> or of any notes of evidence, or of any document put in evidence at an inquest<sup>6</sup>. A coroner may, on application and without charge, permit any person who, in the opinion of the coroner, is a properly interested person to inspect such report, notification, notes of evidence or document<sup>7</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 See the Coroners' Records (Fees for Copies) Rules 2002, SI 2002/2401, rr 1(1), 2. These rules provide that the fees payable from 1 November 2002 to coroners or other persons for furnishing copies, other than photocopies, of inquisitions, depositions or other documents in their custody relating to an inquest are:

14 (1) for a copy of not more than 360 words, £6.20;

15 (2) for a copy of not less than 361 and not more than 1,440 words, £13.10;

16 (3) for a copy in excess of 1,440 words, £13.10 for the first 1,440 words and 70 pence for each 72 words or part thereof thereafter.

The fee payable to coroners or other persons for furnishing photocopies of inquisitions, depositions or other documents in their custody relating to an inquest is £1.10 for each page: r 3. For these purposes, 'photocopy' includes a copy produced by xerox machine, photocopier, facsimile, or printed from a computer disk: r 1(2).

3 Ie including one made under the Coroners Act 1988 s 19: see PARA 965 ante.

4 For the meaning of 'special examination' see PARA 1015 note 3 ante.

5 Ie under the Coroners Rules 1984, SI 1984/552, rr 9, 9A, 12, 12A (rr 9, 12 as amended; rr 9A, 12A as added): see PARA 971 ante.

6 Ibid r 57(1) (amended by SI 1999/3325; SI 2005/420). It is not necessary for the inquest to be completed before copies of documents can be supplied. See *R (on the application of Bentley) v HM Coroner for the District of Avon* [2001] EWHC Admin 170, (2002) 166 JP 297 (coroner wrongly refused to disclose witness statements prior to the inquest). The right to inspect carries with it the right to copy documents: *Nelson v Anglo-American Land Mortgage Agency Co* [1897] 1 Ch 130.

7 Coroners Rules 1984, SI 1984/552, r 57(2) (amended by SI 2005/420).

### **UPDATE**

### **1059 Copies of documents**

NOTES--As to the supply of information concerning the death of children to Local Safeguarding Children Boards see SI 1984/552 r 57A (added by SI 2008/1652).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/ (8) DOCUMENTS AND OTHER PROPERTY/1060. Transfer of documents to coroner's successor.

**1060. Transfer of documents to coroner's successor.**

Where a coroner<sup>1</sup> vacates his office by death or otherwise, all documents, exhibits, registers and other things in the custody of the coroner in connection with inquests<sup>2</sup> or post-mortem examinations<sup>3</sup> must be transferred to the coroner next appointed to that office<sup>4</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 For the meaning of 'inquest' see PARA 938 note 2 ante.

3 For the meaning of 'post-mortem examination' see PARA 938 note 3 ante.

4 Coroners Rules 1984, SI 1984/552, r 59.



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1061. Schedule of fees and allowances.

## **(9) EXPENSES, RETURNS AND RECORDS**

### **(i) Expenses**

#### **1061. Schedule of fees and allowances.**

A relevant council<sup>1</sup>:

- 239 (1) may from time to time make a schedule of the fees, allowances, and disbursements which may lawfully be paid or made by a coroner in the course of his duties, other than fees and allowances paid by him to witnesses and persons summoned to attend as witnesses and to medical practitioners making post-mortem examinations by the coroner's direction or at his request<sup>2</sup>;
- 240 (2) may at any time vary a schedule so made; and
- 241 (3) must cause a copy of every schedule so made or so varied to be sent to every coroner concerned<sup>3</sup>.

1 For the meaning of 'relevant council' see PARA 908 ante.

2 Ie other than fees and allowances to which the Coroners Act 1988 s 24(1) applies: see PARA 1062 post.

3 Ibid s 24(2). Where, in the opinion of the Secretary of State, adequate provision is not made for them by a schedule under s 24(2), he may by rules made by statutory instrument prescribe the fees, allowances and disbursements which may be lawfully paid or made by a coroner in the course of his duties, other than fees and allowances to which s 24(1) applies (see PARA 1062 post): s 24(3)(b). At the date at which this volume states the law, no such rules had been made and none have effect as if so made. As to the payment of jurors see PARA 1063 post. As to the Secretary of State see PARA 908 note 2 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1062. Fees of medical and other witnesses.

**1062. Fees of medical and other witnesses.**

The fees and allowances which may be lawfully paid by coroners to witnesses and persons summoned to attend as witnesses and to medical practitioners making post-mortem examinations by the coroner's direction<sup>1</sup> or at the coroner's request<sup>2</sup> are such as may be determined by the Secretary of State<sup>3</sup> with the consent of the Treasury<sup>4</sup>.

1     Ie pursuant to the Coroners Act 1988 s 19(1) (see PARA 965 ante), s 21(2) (see PARA 1014 ante) or s 21(4) (see PARA 1016 ante).

2     Ie pursuant to *ibid* s 20(1): see PARA 1015 ante.

3     As to the Secretary of State see PARA 908 note 2 ante.

4     Coroners Act 1988 s 24(1). Nothing in s 24(1) applies in relation to the fees payable in respect of a special examination under s 20 (see PARA 1015 ante): s 24(1). As to the fees payable see Home Office Circular 15/2004. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1063. Payments to jurors.

### **1063. Payments to jurors.**

Jurors at inquests are paid out of local authority funds<sup>1</sup>, and not, as at other courts, from money provided by Parliament<sup>2</sup>.

A person who serves as a juror in a coroner's court is entitled<sup>3</sup>, in respect of his attendance at court for the purpose of performing jury service, to receive payments, at the rates determined by the Secretary of State with the consent of the Treasury<sup>4</sup> and subject to any prescribed<sup>5</sup> conditions, by way of allowance:

242 (1) for travelling and subsistence; and

243 (2) for financial loss where, in consequence of his attendance for that purpose, he has incurred expenditure, otherwise than on travelling and subsistence, to which he would not otherwise be subject, or he has suffered any loss of earnings which he would otherwise have made or any loss of benefit under the enactments relating to national insurance and social security which he would otherwise have received<sup>6</sup>.

The amounts due to any person in respect of such service must be ascertained and paid over to him by the coroner<sup>7</sup>. The coroner is then reimbursed by the local authority<sup>8</sup>.

1 See PARA 1061 ante.

2 See the Juries Act 1974 s 19(2) (as amended); and JURIES vol 61 (2010) PARA 854.

3 For these purposes, a person who, in obedience to a summons to serve on a jury, attends for service as a juror is deemed to serve as a juror notwithstanding that he is not subsequently sworn: Coroners Act 1988 s 25(3).

4 As to the Secretary of State see PARA 908 note 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

5 For these purposes, 'prescribed' means prescribed by regulations made by statutory instrument by the Secretary of State with the consent of the Treasury: *ibid* s 25(4). At the date at which this volume states the law, no such regulations had been made but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Jurors' (Coroners' Courts) Allowances Regulations 1975, SI 1975/1091 (amended by SI 1975/2068; SI 1977/408) have effect as if so made, but only to the extent that they prescribe conditions relating to the payment of allowances: see note 6 *infra*.

6 Coroners Act 1988 s 25(1). Section 25 does not apply in relation to service on a jury on an inquest held by the coroner of the Queen's household but that does not affect any entitlement to payment that might otherwise be enjoyed by a juror for service on such a jury: s 29(7), Sch 2 para 4. As to the coroner of the Queen's household see PARA 935 ante.

The Jurors' (Coroners' Courts) Allowances Regulations 1975, SI 1975/1091 (as amended) originally prescribed both the rates of travelling allowance, subsistence allowance and financial loss allowance payable to jurors at a coroner's court and the conditions relating to the payment of such allowances. However, to the extent that the regulations prescribed rates of allowances, they ceased to have effect on the amendment of the Coroners Act 1887 s 25A (repealed) by the Administration of Justice Act 1977 s 2, Sch 2 para 1 (repealed), which provided that rates of allowances were to be determined administratively instead of being prescribed by statutory instrument. As to the payments to be made see now Home Office Circular 15/2004.

7 Coroners Act 1988 s 25(2).

8 See PARA 1065 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1064. Payment of expenses by coroner.

**1064. Payment of expenses by coroner.**

A coroner holding an inquest must, immediately after the termination of the proceedings, pay:

- 244 (1) the fees of every medical witness<sup>1</sup>;
- 245 (2) the allowance of every juror<sup>2</sup>; and
- 246 (3) all expenses reasonably incurred in and about the holding of the inquest,

not exceeding the fees, allowances and disbursements which may be lawfully paid or made<sup>3</sup> under the Coroners Act 1988<sup>4</sup>.

Any fees, allowances or disbursements so paid or made must be repaid to the coroner in manner provided by the Coroners Act 1988<sup>5</sup>.

1 See PARA 1062 ante.

2 See PARA 1063 ante.

3 See PARA 1061 ante.

4 Coroners Act 1988 s 26(1). See also PARA 1065 post.

5 Ibid s 26(2).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1065. Coroner's duty to present accounts.

**1065. Coroner's duty to present accounts.**

Every coroner must, within four months after paying or making any fees, allowances or disbursements in accordance with the provisions of the Coroners Act 1988, cause a full and true account of all fees, allowances and disbursements so paid or made by him to be laid before the relevant council<sup>1</sup>.

Every such account must be accompanied by such vouchers as under the circumstances may to the relevant council seem reasonable; and the relevant council may, if it thinks fit, examine the coroner on oath as to any such account<sup>2</sup>.

On being satisfied of the correctness of any such account, the relevant council must order its treasurer to pay to the coroner the sum due; and the treasurer must without any abatement or deduction pay that sum:

- 247 (1) in the case of a metropolitan district or London borough council, out of the general fund;
- 248 (2) in the case of a non-metropolitan district council, out of the general fund;
- 249 (3) in the case of a non-metropolitan county council in England, out of the county fund;
- 250 (4) in the case of the council of a Welsh principal area<sup>3</sup>, out of the council fund; and
- 251 (5) in the case of the Common Council<sup>4</sup>, out of the City fund<sup>5</sup>,

and must be allowed that sum on passing his accounts<sup>6</sup>.

In the case of a coroner for a coroner's district<sup>7</sup>:

- 252 (a) consisting of two or more metropolitan districts, special non-metropolitan districts<sup>8</sup> or London boroughs;
- 253 (b) which lies partly in each of two or more Welsh principal areas; or
- 254 (c) which lies partly in each of two or more non-metropolitan counties in England,

the expenses of the councils of those districts, boroughs, areas or counties in respect of the coroner's service must be apportioned between those councils in such manner as they may agree or, in default of agreement, as may be determined by the Secretary of State<sup>9</sup>.

1 Coroners Act 1988 s 27(1). For the meaning of 'relevant council' see PARA 908 ante.

2 Ibid s 27(2).

3 For the meaning of 'Welsh principal area' see PARA 908 note 3 ante.

4 For the meaning of 'the Common Council' see PARA 908 note 11 ante.

5 As to the City fund see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 552.

6 Coroners Act 1988 s 27(3) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 82(7); the Local Government Finance (Miscellaneous Amendments and Repeal) Order 1990, SI 1990/1285, art 2, Schedule; and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (6)).

7 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

8 For the meaning of 'special non-metropolitan district' see PARA 908 note 1 ante.

9 Coroners Act 1988 s 27(4) (amended by the Local Government (Wales) Act 1994 Sch 16 para 82(8); the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1996, SI 1996/655, reg 2(1), (7); and the Local Government Reorganisation (Amendment of Coroners Act 1988) Regulations 1998, SI 1998/465, reg 2(9)). As to the Secretary of State see PARA 908 note 2 ante.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1066. Indemnity.

# **1066. Indemnity.**

A coroner must be indemnified by the relevant council<sup>1</sup> (without having to lay an account before it<sup>2</sup>) in respect of:

- 255 (1) any costs which he reasonably incurs in or in connection with proceedings<sup>3</sup> in respect of anything done or omitted in the exercise, or purported exercise, of his duty as a coroner;
- 256 (2) any costs which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
- 257 (3) any damages awarded against him or costs ordered to be paid by him in any such proceedings; and
- 258 (4) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim<sup>4</sup>.

Any amount due to a coroner must be paid:

- 259 (a) in the case of a metropolitan or non-metropolitan district council or London borough council, out of the general fund;
- 260 (b) in the case of a non-metropolitan county council in England, out of the county fund;
- 261 (c) in the case of the council of a Welsh principal area<sup>5</sup>, out of the council fund; and
- 262 (d) in the case of the Common Council<sup>6</sup>, out of the City fund<sup>7</sup>.

In the case of a coroner for a coroner's district<sup>8</sup> which:

- 263 (i) consists of two or more metropolitan districts, special non-metropolitan districts<sup>9</sup> or London boroughs;
- 264 (ii) lies partly in each of two or more Welsh principal areas; or
- 265 (iii) lies partly in each of two or more non-metropolitan counties in England,

any amount due to the coroner is to be apportioned between the councils of those districts, boroughs, areas or counties in such manner as they may agree or, in default of agreement, as may be determined by the Secretary of State<sup>10</sup>.

1 For the meaning of 'relevant council' see PARA 908 ante.

2 le under the Coroners Act 1988 s 27 (as amended): see PARA 1065 ante.

3 Ibid s 27A(1) (as added) applies in relation to proceedings by a coroner only if and to the extent that the relevant council agrees in advance to indemnify him: s 27A(2) (s 27A added by the Access to Justice Act 1999 s 104(1)). A coroner may appeal to the Secretary of State, or to any person appointed by the Secretary of State for the purpose, from any decision of the relevant council under the Coroners Act 1988 s 27A(2) (as added): s 27A(3) (as so added). As to the Secretary of State see PARA 908 note 2 ante.

4 Ibid s 27A(1) (as added: see note 3 supra).

5 For the meaning of 'Welsh principal area' see PARA 908 note 3 ante.

6 For the meaning of 'the Common Council' see PARA 908 note 11 ante.

7 Coroners Act 1988 s 27A(4) (as added: see note 3 supra). As to the City fund see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 552.

8 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

9 For the meaning of 'special non-metropolitan district' see PARA 908 note 1 ante.

10 Coroners Act 1988 s 27A(5) (as added: see note 3 supra).



Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(i) Expenses/1067. Repayment to coroner.

**1067. Repayment to coroner.**

The fees, allowances and disbursements actually paid or made by a coroner holding an inquest, if within the statutory limits, must be repaid to the coroner whether it was proper that the inquest should have been held or not, and the relevant council has no power to disallow any of them, its jurisdiction in this respect being limited to satisfying itself by examination of the coroner or otherwise that the expenses were really incurred and do not exceed the statutory limits<sup>1</sup>.

<sup>1</sup> *R v Carmarthenshire Justices* (1847) 10 QB 796 (decided under 7 Will 4 & 1 Vict c 68 (Coroners Inquests, Expenses) (1837) (repealed), which was similar in terms to the Coroners Act 1988 s 27 (as amended)).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(ii) Returns and Records/1068. Returns of inquests.

## **(ii) Returns and Records**

### **1068. Returns of inquests.**

Every coroner must, on or before 1 February in every year, furnish to the Secretary of State<sup>1</sup> a return in writing, in such form and containing such particulars as the Secretary of State may direct, of all cases in which an inquest has been held by him, or by some person acting for him, during the year ending on the immediately preceding 31 December<sup>2</sup>.

Every coroner must also, as and when required by the Secretary of State, furnish to the Secretary of State returns in relation to inquests held and deaths inquired into by him in such form and containing such particulars as the Secretary of State may direct<sup>3</sup>.

1 As to the Secretary of State see PARA 908 note 2 ante.

2 Coroners Act 1988 s 28(1).

3 Ibid s 28(2). As to the special returns which are required in the case of inquests on persons killed on railways see PARA 1069 post; and as to the special returns which are required in the case of deaths on ships see PARA 1070 post.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(ii) Returns and Records/1069. Returns in respect of deaths on railways.

**1069. Returns in respect of deaths on railways.**

In the case of an inquest into the death of a person who is proved to have been killed on a railway<sup>1</sup> or to have died in consequence of injuries received on a railway, the coroner must, within seven days after holding the inquest, make a return of the death, including the cause of death, to the Secretary of State<sup>2</sup> in such form as he may require<sup>3</sup>.

1 For these purposes, 'railway' has the same meaning as in the Railway Regulation Act 1842 (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 384): Coroners Act 1988 s 11(8).

2 As to the Secretary of State see PARA 908 note 2 ante.

3 Coroners Act 1988 s 11(8).

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(ii) Returns and Records/1070. Returns in respect of deaths on ships.

**1070. Returns in respect of deaths on ships.**

Where a death occurs on ship<sup>1</sup> and an inquest is held on a dead body or into a death, or a post-mortem examination is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary, and it appears to the coroner that:

- 266 (1) the death in question has been the subject of an inquest held by the coroner or an inquiry held under the Merchant Shipping Act 1995<sup>2</sup>, and the findings of the inquest or inquiry include a finding that the death occurred; or
- 267 (2) a post-mortem examination has been made of the deceased's body and in consequence the coroner is satisfied that an inquest is unnecessary,

it is the coroner's duty to send to the Registrar General of Shipping and Seamen<sup>3</sup> the prescribed particulars<sup>4</sup> in respect of the deceased<sup>5</sup>.

1 As to the ships to which these provisions apply see SHIPPING AND MARITIME LAW vol 94 (2008) PARA 655.

2 le under the Merchant Shipping Act 1995 s 271: see SHIPPING AND MARITIME LAW vol 94 (2008) PARA 873.

3 As to the Registrar General of Shipping and Seamen see SHIPPING AND MARITIME LAW vol 93 (2008) PARA 61.

4 For the prescribed particulars see the Merchant Shipping (Returns of Births and Deaths) Regulations 1979, SI 1979/1577, reg 8, Sch 3.

5 See ibid reg 8. As to deaths on ships see further SHIPPING AND MARITIME LAW vol 94 (2008) PARA 655.

**UPDATE**

**1070 Returns in respect of deaths on ships**

NOTES--Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/CORONERS (VOLUME 9(2) (2006 REISSUE))/3. INQUESTS/(9) EXPENSES, RETURNS AND RECORDS/(ii) Returns and Records/1071. Register of deaths.

**1071. Register of deaths.**

A coroner<sup>1</sup> must keep an indexed register of all deaths reported to him or to his deputy or assistant deputy<sup>2</sup>. The register must contain the prescribed particulars, that is to say:

- 268 (1) the date on which the death is reported to the coroner;
- 269 (2) particulars of the deceased<sup>3</sup>, namely his full name and address, age and sex;
- 270 (3) the cause of death;
- 271 (4) a statement as to whether the case is disposed of by using Pink Form A<sup>4</sup> or Pink Form B<sup>5</sup> or whether an inquest<sup>6</sup> was held; and
- 272 (5) the verdict at the inquest, if any<sup>7</sup>.

1 For the meaning of 'coroner' see PARA 938 note 1 ante.

2 Coroners Rules 1984, SI 1984/552, r 54.

3 For the meaning of 'deceased' see PARA 966 note 3 ante.

4 Ie where a reference is concluded without a post-mortem examination or an inquest: see PARA 964 ante.

5 Ie where a reference is concluded by a post-mortem examination without an inquest: see PARA 965 ante.

6 For the meaning of 'inquest' see PARA 938 note 2 ante.

7 Coroners Rules 1984, SI 1984/552, r 54, Sch 3.

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## **(10) CHALLENGING THE CORONER'S DECISIONS**

### **(i) In general**

#### **1072. Modes of challenging coroner's decision.**

A coroner's inquest may be challenged:

- 273 (1) by the High Court, under statutory powers, upon application made by or under the authority of the Attorney General<sup>1</sup>;
- 274 (2) by an application for judicial review<sup>2</sup>.

The remedy of judicial review<sup>3</sup> is of far wider scope than the statutory power of the court to order a new inquest. Judicial review may be sought where the conduct of a coroner at any stage of the inquest is challenged and thus covers interim decisions of a coroner as well as whole inquests. It is exceptional for there to be an application to the court during the course of an inquest<sup>4</sup>.

<sup>1</sup> See PARA 1073 post. As to the Attorney General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 529.

<sup>2</sup> See PARAS 1074-1075 post.

<sup>3</sup> It was suggested in *R v South London Coroner, ex p Thompson*(1982) Times, 15 May, per Comyn J that the High Court could review a coroner's decision under its residual common law powers. This is, however, not the case and there are no such separate common law powers: *Re Rapier*[1988] QB 26, [1986] 3 All ER 726, DC.

<sup>4</sup> *R v Exeter Coroner, ex p Palmer* (10 December 1997, unreported), CA.

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## (ii) High Court's Power to order Inquest

### 1073. Statutory powers of High Court.

Where the High Court is satisfied, on an application by or under the authority of the Attorney General<sup>1</sup>, as respects a coroner ('the coroner concerned') either:

- 275 (1) that he refuses or neglects to hold an inquest which ought to be held; or
- 276 (2) where an inquest has been held by him, that, whether by reason of fraud<sup>2</sup>, rejection of evidence<sup>3</sup>, irregularity of proceedings<sup>4</sup>, insufficiency of inquiry<sup>5</sup>, the discovery of new facts or evidence<sup>6</sup> or otherwise, it is necessary or desirable in the interests of justice<sup>7</sup> that another inquest should be held,

it may:

- 277 (a) order an inquest or, as the case may be, another inquest to be held into the death either by the coroner concerned or by the coroner for another district<sup>8</sup> in the same administrative area<sup>9</sup>;
- 278 (b) order the coroner concerned to pay such costs of and incidental to the application as to the court may appear just<sup>10</sup>; and
- 279 (c) where an inquest has been held, quash the inquisition on that inquest<sup>11</sup>.

Where an inquest is held by the coroner for another district in the same administrative area, the coroner by whom it is held is treated as if he were the coroner for the district of the coroner concerned<sup>12</sup>.

1 The application must be made by claim form and the claim form must state the grounds of the application and, unless the application is made by the Attorney General, should be accompanied by his fiat: CPR Sch 1 RSC Ord 94 r 14(2). Any function of the Attorney General may be exercised by the Solicitor General (Law Officers Act 1997 s 1(1)); and anything done by or in relation to the Solicitor General in the exercise of or in connection with a function of the Attorney General has effect as if done by or in relation to the Attorney General (s 1(2)). See further CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the Attorney General and the Solicitor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 529.

2 See eg *R v Wakefield* (1717) 1 Stra 69 (misdirection by the coroner with fraudulent intent).

3 See eg *R v HM Coroner for Inner North London, ex p Linnane (No 2)* (1990) 155 JP 343, DC (new inquest not ordered).

4 See eg *R v Divine, ex p Walton* [1930] 2 KB 29; *R v Reynolds* [1945] KB 20; *R v Surrey Coroner, ex p Campbell* [1982] QB 661, [1982] 2 All ER 545, DC; *R v HM Coroner for Inner North London, ex p Linnane (No 2)* (1990) 155 JP 343, DC; *Clayton v South Yorkshire (East District) Coroner* [2005] EWHC 1196 (Admin), [2005] All ER (D) 108 (Jun) (misdirection to jury).

5 See eg *Re Collins, A-G v Coroner for Southern District of Greater London* (1987) 152 JP 641; *R v HM Coroner for Wiltshire, ex p Taylor* (1990) 154 JP 933, DC; *R v HM Coroner for Kent (Maidstone District), ex p Johnstone* (1994) 158 JP 1115, DC; *R v HM Coroner for Coventry, ex p O'Reilly* (1996) 160 JP 749, DC; *Combe v Blackburn Hyndburn and Ribble Valley Coroner* [2005] All ER (D) 246 (Nov); *R (on the application of Lambourne) v Deputy Coroner for Avon* [2002] EWHC 1877 (Admin), [2002] All ER (D) 443 (Jul); *R (on the application of Stanley) v Inner North London Coroner* [2003] EWHC 1180 (Admin), [2003] All ER (D) 351 (Apr).

6 See eg *A-G v Harte*(1987) 151 JP 819; *R v Coroner for the County of Hampshire, ex p A-G*(1990) 154 JP 190, DC; *R v HM Coroner for Wiltshire, ex p Taylor*(1990) 154 JP 933, DC; *Re Farrer* (22 April 1991, unreported), DC; *R v HM Coroner for Derbyshire (Scarsdale), ex p Fletcher*(1992) 156 JP 522, DC; *R v HM Coroner for Coventry, ex p O'Reilly*(1996) 160 JP 749, DC; *R v HM Coroner for Wiltshire, ex p Clegg*(1997) 161 JP 521, DC; *North West Wales Coroner v Hartley*[2005] All ER (D) 62 (Oct).

7 See eg *R v Divine, ex p Walton*[1930] 2 KB 29; *R v South London Coroner, ex p Thompson*(1982) Times, 9 July; *Re Rapier*[1988] QB 26, [1986] 3 All ER 726, DC; *Re Neal* (1995) 37 BMLR 164, DC.

8 As to coroners' districts in England see PARA 909 ante; and as to coroners' districts in Wales see PARA 910 ante.

9 For the meaning of 'administrative area' see PARA 909 note 10 ante.

10 As to costs see PARA 1076 post.

11 Coroners Act 1988 s 13(1), (2). See *Re Maddison*(2002) Times, 28 November (deceased died during scientific trials conducted by state; appropriate to quash original inquisition and order fresh inquest). See also *Canning v County of Northampton Coroner*[2005] All ER (D) 317 (Nov) (coroner's decision not to carry out inquest upheld).

12 Coroners Act 1988 s 13(3).

## **UPDATE**

### **1073 Statutory powers of High Court**

NOTE 1--CPR Sch 1 RSC Ord 94 r 14 revoked: SI 2006/3435.



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### **(iii) Judicial Review**

#### **1074. Application for leave.**

The court's permission to proceed is required in a claim for judicial review<sup>1</sup>. The claim form must be filed promptly and in any event not later than three months after the grounds to make the claim first arose<sup>2</sup>.

The court may decide the claim for judicial review without a hearing where all the parties agree<sup>3</sup>. Permission should be granted if, on the material then available, the court considers, without going into the matter in depth, that there is an arguable case for granting the relief sought by the applicant<sup>4</sup>. In considering whether to give leave to apply for judicial review, the court must, however, take account of the alternative remedies available to the applicant since, where any alternative remedy has not been exhausted, the remedy of judicial review will not normally be available<sup>5</sup>.

1 CPR 54.4. As to the practice and procedure on an application for permission to proceed see JUDICIAL REVIEW vol 61 (2010) PARA 664.

2 CPR 54.5.

3 CPR 54.18.

4 See eg *IRC v National Federation of Self Employed and Small Businesses Ltd* [1982] AC 617 at 644, [1981] 2 All ER 93 at 106, HL, per Lord Diplock; and JUDICIAL REVIEW vol 61 (2010) PARA 664. For a case in which permission was refused see *R (on the application of Haqq) v Inner West London Coroner* [2003] EWHC 3366 (Admin), [2003] All ER (D) 354 (Dec). See also *R (on the application of Craik) v Wiltshire and Swindon Coroner* [2004] EWHC 2653 (Admin), [2004] All ER (D) 347 (Nov).

5 See JUDICIAL REVIEW vol 61 (2010) PARA 664.

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### 1075. Proceedings.

Applications for judicial review in coroners' cases follow the same procedure as do other applications for judicial review<sup>1</sup>. Claims for judicial review are dealt with in the Administrative Court<sup>2</sup>. Evidence is given by witness statement and the usual rules of evidence apply to claims for judicial review as to any other type of claim<sup>3</sup>. The respondent must file detailed grounds for contesting the claim or supporting it on additional grounds, and any written evidence, within 35 days after service of the order giving permission to proceed with the claim<sup>4</sup>. Any person may apply for permission to file evidence or make representations at the hearing of the judicial review but any such application should be made promptly<sup>5</sup>.

Fresh evidence is admissible only if it shows the material before the coroner, or if it is needed by the court to show how an error has occurred, or it is evidence of misconduct<sup>6</sup>.

The basis of an application for judicial review is normally that the coroner has made an error in the decision-making process. The test may be described as whether any reasonable coroner could have reached the conclusion which the coroner in question has reached<sup>7</sup>.

The remedy usually sought is a quashing order to quash the inquest and a mandatory order for a fresh inquest to be held<sup>8</sup>. Alternatively, the court may agree to amend or delete part of the inquisition<sup>9</sup>.

1 As to the practice and procedure for judicial review see JUDICIAL REVIEW vol 61 (2010) PARA 659 et seq.

2 See *Practice Direction--Judicial Review* (2000) PD 54 para 2.1.

3 See JUDICIAL REVIEW vol 61 (2010) PARA 674.

4 See CPR 54.14.

5 See CPR 54.17.

6 *R v HM Coroner for East Berkshire, ex p Buckley* (1992) 157 JP 425, DC. See also JUDICIAL REVIEW vol 61 (2010) PARA 674.

7 See *R v HM Coroner for the City of London, ex p Barber* [1975] 3 All ER 538, sub nom *R v City of London Coroner, ex p Barber* [1975] 1 WLR 1310, DC. See, however, *R v Exeter Coroner, ex p Palmer* (10 December 1997, unreported), CA.

8 See eg *R v Southwark Coroner, ex p Hicks* [1987] 2 All ER 140, [1987] 1 WLR 1624, DC. As to quashing orders see JUDICIAL REVIEW vol 61 (2010) PARA 693 et seq; and as to mandatory orders see JUDICIAL REVIEW vol 61 (2010) PARA 703 et seq.

9 See eg *R v St Pancras Coroner's Court, ex p Higgins* (1988) 152 JP 637, DC; *R v HM Coroner for Inner South London, ex p Epsom Health Care NHS Trust* (1994) 158 JP 973, DC (latter part of verdict struck out); *R v HM Coroner for Birmingham and Solihull, ex p Benton* [1997] 8 Med LR 362 at 367-368 (substitution of part of verdict); *R (on the application of Plymouth City Council) v County of Devon Coroner* [2005] EWHC 1014 (Admin), [2005] 2 FCR 428, [2005] All ER (D) 446 (May) (coroner's verdict quashed); *R (on the application of Mowlem plc) v Avon Assistant Deputy Coroner* [2005] EWHC 1359 (Admin), [2005] All ER (D) 204 (May) (words substituted in verdict); *Ministry of Defence v Wiltshire and Swindon Coroner* [2006] EWHC 309 (Admin) (court could exercise power to amend inquisition to give effect to compromise between parties).

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#### **(iv) Costs**

##### **1076. Costs.**

In general costs are in the discretion of the court, whether the application is made under the statutory power<sup>1</sup> or by way of judicial review<sup>2</sup>. The usual rule is that costs should follow the event<sup>3</sup>. Thus, when the applicant fails in his application, he should pay the respondent's costs<sup>4</sup>, unless there is special reason for his not doing so<sup>5</sup>. This rule applies even where the applicant is the coroner himself<sup>6</sup>.

Where the applicant succeeds against a coroner, the position is less clear. A distinction has been made between the situations where the coroner was not present or represented at the hearing and took no part in it beyond filing an affidavit and where he was present or represented and took part. In the former case the court would not make any order for costs against the coroner<sup>7</sup> unless he had done something calling for strong disapproval<sup>8</sup>. In the latter case the court usually made no order for costs<sup>9</sup>, but sometimes did so, particularly where the coroner had 'descended into the arena' and fought the case like ordinary litigation<sup>10</sup>. There is also a third situation where the coroner appears in proceedings in order to assist the court neutrally and no order for costs should be made either for or against the coroner<sup>11</sup>.

In the past it has sometimes been suggested that the distinction is immaterial and that the position is the same as for any ordinary litigant so that an order may be made against a coroner who has not taken part in the proceedings and who has done nothing calling for strong disapproval<sup>12</sup>, or even one who has conducted himself impeccably<sup>13</sup>. As the court has express power in the special statutory form of review (ie not judicial review) to award costs against a coroner whenever the court is satisfied that it is necessary in the interest of justice that another inquest should be held<sup>14</sup>, in some cases justice may demand that a successful self-funded applicant should be awarded costs even though the coroner is not at fault or has appeared only to assist the court<sup>15</sup>.

1 See PARA 1073 ante.

2 See PARAS 1074-1075 ante. As to legal assistance for claims for judicial review see the Access to Justice Act 1999 Pt I (ss 1-26) (as amended); and LEGAL AID vol 65 (2008) PARA 45.

3 See CPR Pt 44; and JUDICIAL REVIEW vol 61 (2010) PARA 684.

4 See *R v HM Coroner for South Glamorgan, ex p BP Chemicals Ltd*(1987) 151 JP 799, DC; *R v Greater Manchester North District Coroner, ex p Worch*[1988] QB 513, [1987] 3 All ER 661, CA; *R v HM Coroner for Portsmouth, ex p Keane*(1989) 153 JP 658, DC; *R v Wiltshire Coroner, ex p Taylor*(1990) 154 JP 933, DC; *R v Coroner for Birmingham and Solihull, ex p Cotton*(1995) 160 JP 123, DC.

5 See CPR 44.3; *R v HM Coroner for Wiltshire, ex p Clegg*(1997) 161 JP 521, DC.

6 *Re Kelly*(1996) 161 JP 417, DC.

7 *R v West Yorkshire Coroner, ex p Smith*(1982) Times, 6 November; *R v West Yorkshire Coroner, ex p Kenyon*(1984) Times, 11 April, DC; *R v Essex Coroner, ex p Hopper* (13 May 1988, unreported), DC; *R v HM Coroner for Inner South London, ex p Epsom Health Care NHS Trust*(1994) 158 JP 973, DC; *R (on the application of Davies) v Birmingham Deputy Coroner*[2004] EWCA Civ 207, [2004] 3 All ER 543, [2004] 1 WLR 2739; *R (on the application of Sharman) v Inner North London Coroner*[2005] EWHC 857 (Admin), [2005] All ER (D) 163 (May).

8 *R v McHugh, ex p Trelford* (22 March 1984, unreported), DC; *R v Dyfed Coroner, ex p Evans* (24 May 1984, unreported), DC; *R (on the application of Plymouth City Council) v County of Devon Coroner* [2005] EWHC 1014 (Admin), [2005] 2 FCR 428, [2005] All ER (D) 446 (May). If the court is minded to make an order on the grounds of strong disapproval, it will give the coroner an opportunity to make representations first: *R v West Yorkshire Coroner, ex p Kenyon* (1984) Times, 11 April, DC.

9 *R v Surrey Coroner, ex p Ager* (3 July 1974, unreported), DC; *R v West London Coroner, ex p Gray* (1986) 151 JP 209, DC; *R v Shrewsbury Coroner's Court, ex p British Parachute Association* (1987) 152 JP 123, DC; *R v St Pancras Coroner's Court, ex p Higgins* (1988) 152 JP 637, DC; *R v Coroner for Inner North London, ex p Diesa Koto* (1993) 157 JP 857, DC; *R v Merseyside Coroner, ex p Carr* [1993] 4 All ER 65, [1994] 1 WLR 578, DC; *R v HM Coroner for Inner North London, ex p Cohen* (1993) 158 JP 644, DC; *R v HM Coroner for Reading, ex p West Berkshire Housing Consortium Ltd* (11 July 1995, unreported). A number of important considerations might lead the court to depart from the established practice of not making an order for costs against a coroner whose appearance was intended to be by way of neutral assistance to the court: *R (on the application of Davies) v Birmingham Deputy Coroner* [2004] EWCA Civ 207, [2004] 3 All ER 543, [2004] 1 WLR 2739.

10 *R v Inner North London Coroner, ex p Chambers* (1983) 127 Sol Jo 445, DC; *R v HM Coroner for Southern District of Greater London, ex p Driscoll* (1993) 159 JP 45, DC; *R v HM Coroner for Kent (Maidstone District), ex p Johnstone* (1995) 158 JP 1115, DC.

11 See *R v HM Coroner for Lincoln, ex p Hay* [2000] Lloyd's Rep Med 264; *R (on the application of Davies) v Birmingham Deputy Coroner* [2004] EWCA Civ 207, [2004] 3 All ER 543, [2004] 1 WLR 2739.

12 See *R v HM Coroner for Wiltshire, ex p Clegg* (1997) 161 JP 521, DC. Cf *Seifert v Pensions Ombudsman* [1997] 4 All ER 947, CA.

13 See *R (on the application of Touche) v Inner London North Coroner* [2001] EWCA Civ 383, [2001] QB 1206, [2001] 2 All ER 752.

14 See under the Coroners Act 1988 s 13(2)(b): see PARA 1073 ante.

15 See *R (on the application of Touche) v Inner London North Coroner* [2001] EWCA Civ 383, [2001] QB 1206, [2001] 2 All ER 752; *R (on the application of Davies) v Birmingham Deputy Coroner* [2004] EWCA Civ 207, [2004] 3 All ER 543, [2004] 1 WLR 2739. The fact that the relevant council is obliged in certain circumstances to indemnify a coroner against liability for costs under the Coroners Act 1988 s 27A (as added) (see PARA 1066 ante) can be a factor to take into account: see *R (on the application of Davies) v Birmingham Deputy Coroner* supra.

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INQUESTS INTO TREASURE

## **(11) INQUESTS INTO TREASURE**

### **UPDATE**

#### **1077-1100 Inquests into treasure**

Material relating to this part has been revised and published under the title NATIONAL  
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